

The Washington Post  
September 9, 1949

## U.S. to Turn Over Jap Gold to Siam, French Indo-China

By the United Press

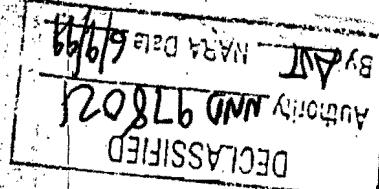
Over the bitter protests of Australia and the Philippines, the United States yesterday informed the 11-nation Far Eastern Commission that it intends to turn over \$80 million dollars in Japanese gold to Siam and French Indo-China. Siam would receive 48 million dollars and French Indo-China 37 million dollars for Japanese occupation damages.

Siam and French Indo-China notified the United States that the gold payments were "earmarked" for them by Japan to pay for goods taken over by the Japanese during the occupation.

American officials investigated and determined that the claims were valid.

After claims + reached the conclusion they were just.

RG Ste  
66A-1039  
Box 62 IATA - losted gold -  
Rest + Claims Vol. II  
47-51



June 24, 1949

Mr. Willie

Mr. Schwartz

There are several as yet unsettled looted gold problems that may come to your attention in connection with your trip abroad. As you know, the three Allied Governments, France, the United Kingdom, and the United States, comprising the Tripartite Commission, have had the continued responsibility for the restitution of looted monetary gold and the distribution of the principal amount of the gold recovered to claimant nations. The looted gold program, including the seeking of restitution of gold from neutral countries, is based on the United States Gold Declaration of February 22, 1944, the United Nations Declaration of January 3, 1943, and Resolution VI of the Bretton Woods Conference. The three Allied Governments have a present responsibility to make further efforts to reach settlements for the restitution of looted gold acquired by Portugal and Turkey.

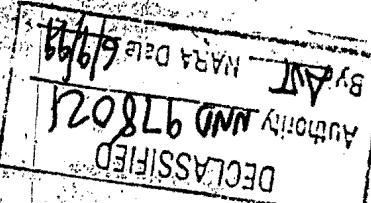
Portugal, it has been established, acquired approximately \$48 million of looted gold (Belgian and Dutch), and after two conferences in Lisbon to which O.I.F. sent a representative, no agreement has been reached. The last conference with Portugal in May, 1948 resulted in an offer by the three Allied Governments to accept in settlement of the above claim less than one-third of the total looted gold established as acquired by Portugal. This offer was rejected by the Portuguese in their last note of July 8, 1948. The Allied Governments replied to the Portuguese note and further requested that the Safe Haven Accord with Portugal be put into effect without waiting a gold settlement. Although further efforts should be made to obtain a satisfactory settlement with Portugal, it is most likely that the three Allied Governments will report to the member countries of the Inter-Allied Reparations Agency Portugal's refusal to reach a settlement under any reasonable terms. It is possible that the Dutch may ask about the failure to settle with Portugal or that England or France may question the delay in completing a report to the country members of IARA. The completion of such a report is, of course, a joint Allied project, and should be handled by the State Department.

Turkey is believed to have acquired approximately \$5 million in gold from Germany during the war of which approximately \$3.5 million was looted Belgian gold. No settlement has been reached with Turkey.

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Box 62 IARA Looted Gold -  
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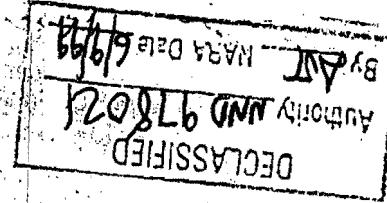
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The unsettled gold claims before the Tripartite Gold Commission are those of Albania for approximately \$1.5 million approved in principal but awaiting further documentation, and a Czechoslovakian claim amounting to approximately \$90 million of which a portion has been disallowed and no final decision made on the balance.

The Dutch have considered for some time attempting to recover Dutch looted gold acquired by Switzerland and not covered by the Washington Accord of May 25, 1944. This is a rather involved matter which the State Department has been primarily responsible for. Any questions by the Dutch about the Washington Accord might be referred to the State Department. In addition to these two claims, the Dutch, as far as I know, have not yet received their share of the last allocation. This is being held up pending agreement with the Dutch on certain aspects of the Washington Accord. However, I do not believe that the Dutch have been informed as to why they have not received their share of the last allocation.

cc: Messrs. Dickens, Smith, Hirshtritt

RJS:jlw 6/24/49



INCOMING TELEGRAM  
DEPARTMENT OF STATE

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CONFIDENTIAL

*Trigartile*

FROM: Brussels

TO: Secretary of State

NO: 801, May 31, 3 p.m.

PH BP FROM DASPART

1. View of limited amount time now able spend Brussels, felt it necessary resign as Chairman Gold Commission. UK Commissioner, Wingate, to take over Chairmanship.
2. My present plan return to Washington about July 20, at which time I expect to have draft opinions on all cases decided by Commission. Will want to discuss these with Legal Adviser.
3. Only matters still pending Commission are Czech claims, Italian Istcambi claim, question of delivery Albanian gold, and possible action Polish claims. As Department aware, action on Czech claims blocked by Department's failure respond my request for advice repeated over last eight months. Would be major contribution to completion Commission tasks if I could be provided with instructions on these claims in time to permit Commission discussion prior to my departure.

MILLARD

PPM, MEW

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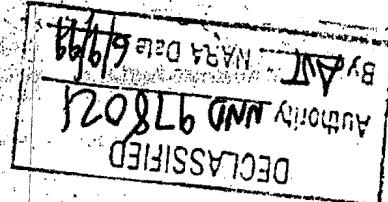
cc: 6/6/49 Messrs. Willis, Arnold, Miss Maloney, Pollack, Pollack, Miss Hoffenberg, Schwartz, Eddy, Bittermann, Conway, Schwartzman, J. Smith, Mint

Re 56

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Box 62 IARA - Looted Gold -  
Rest. + Claims Vol. 4

47-51



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# INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS

TELEGRAPH BRANCH

CONFIDENTIAL

1

Action: DCL  
Info:  
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OLI  
CIA  
UFAA  
ITP  
OFD  
DCR  
FROM: Stockholm  
TO: Secretary of State  
NO: 519, May 11, noon

*Tripartite Comm-*  
Control 4370

Rec'd May 11, 1949  
1:45 p.m.

Yesterday evening I received note signed by Foreign Minister stating in substance Swedish Government now prepared restore 7155.32664 kilos looted gold mentioned paragraph 4(B) Sweden-allied accord July 1946 and that Riksbank will soon take steps effect transfer gold to Federal Reserve Bank New York for account tripartite commission for restitution monetary gold (see EMBDESC 93 March 10).

Note refers to complex task of identification as reason for long delay, states difference (i.e. 156,006 kilos) between 7311.33339 requested by allies and amount to be restored was sold by Riksbank on July 26, 1943 to credit Suisse; thus Sweden not obligated under accord or any subsequent undertaking restore this additional amount. Copy note follows air pouch.

Pass Treasury, ECA and Federal Reserve Board.

Sent Department 519, repeated Brussels 4, pouched London.

CUMMING

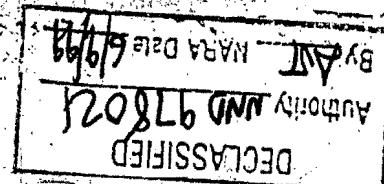
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INFORMATION COPY

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664-1039  
Box 62 IATA-looted Gold  
Rec + Claims Vol 4

47-51



222246

S.A.R.A.

## Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Robert Schwartz, Assistant Chief,  
 International Statistics Division,  
 Treasury Department

FROM : DATE: May 4, 1949.  
 Mr. O. F. Fletcher, Division of Financial Affairs, State Department

SUBJECT: Gold Commission Allocations and Holdings X3481

In compliance with the request submitted by Mr. Mack of your office  
 I am glad to give you the following additional information:

Gold delivered during period January 1 to December 31, 1948  
 in fine ounces:

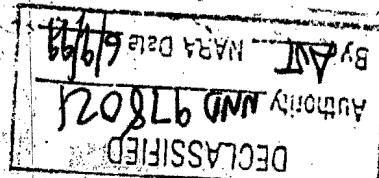
Austria .....	1,276,932.382
France .....	463,664.343
Italy .....	284,628.640
Czechoslovakia,	195,283.854
Yugoslavia,.....	276,760.751

2,497,269.97 in ounces = \$87,394,448.95

Present total undivided holdings by  
 Tripartite Gold Commission ..... 3,256,269.193 in ounces = \$113,969,421.895

OFD:FN:OFFletcher:ch

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 Box 62 TARA - Looted Gold -  
 Rest. + Claims Vol. II  
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# INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS  
CONFIDENTIAL

Security

TELEGRAPH BRANCH

1

Action: OFD

Info:

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DCR

FROM: Brussels  
TO: Secretary of State  
NO: 633, April 29, 4 p.m.  
FN EP FROM DASPI

Re: DEPTEL 520, April 27.

Fine ounces gold delivered during period January 1-December 31, 1945 as follows:

Austria, 1,276,932.382 44,692,634

France, 463,661.343 16,228,252

Italy, 284,628.640 9,962,002

Czechoslovakia, 195,283.854 6,834,935

Yugoslavia, 276,760.751 9,686,626

Total present holdings in fine ounces:

Bank of England, bars, 1,866,669.598; coins 1,080,477.476

Federal Reserve Bank, bars, 309,122.123. In addition Federal Reserve dollar account shows 22,111.92.

DM:VRS.

887.4 million

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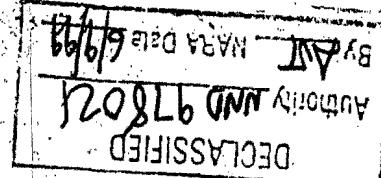
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Box 62 IARA - Looted Gold -  
Rest & Claims Vol. II

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222248

## DEPARTMENT OF STATE

OUTGOING TELEGRAM

APR 27 1949

AMEMBASSY

BRUSSELS

515

FOR DASPI.

Re Czech gold claim 12,769 kgs of gold.

1. Shld 3.710 repeat 3.710 be 5.710 repeat 5.710 (para 3 urtel 580 Apr 2) made up of 3,397 and 2,310 items. How wld you distinguish these items from 200 kgs acquired in Switz by Slovakia Bank. On your net position analysis shld not this also be deducted?

2. Examination para 3B, page 3, enclosure urdesp 437 Jan 20 seems to show that 7,456 kgs gold found in Germany can be traced as being derived from foreign exchange which was in turn derived from free RM's in RM Konto 11 Devisen which acot was in turn derived from 12,768 kgs. If this correct, shld not Czech claim to this gold be forthwith recognized since clear RM's can be traced to this gold, so EM's were never used for capital increment to Czech economy and so definite loss. Appreciate 2,180 kgs were derived from Free RM in Hauptkonto which makes situation different.

3. Re net position analysis, has Comm in all cases made deductions from claims if occupied country secured gold through other sources. E.g. Dutch claim and acquisitions from Sweden etc. Have noted your comments on Istcambi and Salsburg urdesp 499 Jan 25.

4. After receipt your reply hope to be able transmit opinion on case by about May 5.

ACHESON

L: L/E:EMaurer:nlc  
FH:OFFletcher  
4-25-49

CONFIDENTIAL

cc: 4/29/49 Messrs. Willis, Arnold, Miss Maloney, Schwartzman, Schwartz, Eddy, Bittermann, F. Smith, Mint

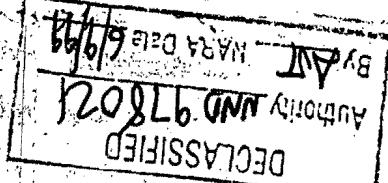
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Box 62 IARA - Looted Gold

Rest. &amp; Claims Vol. II

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Status of looted gold negotiations

Turkey - believed to have purchased at least \$5 million in gold from Germany, of which \$3.5 million Belgian gold. Nothing done toward asking settlement since early 1948.

Portugal - The last offer of the Allied Governments (May 16, 1948) was that they would settle for an amount not less than one-third of the total shown to have been looted, or about \$16 million. This was turned down by a Portuguese note of July 8, 1948, which reiterated the previous offer of less than \$4.5 million, with compensation.

Sweden - Two claims have been made, amounting to 16 metric tons, or almost \$18 millions, and payment is being awaited.

Netherlands-Switzerland - Amount of about \$104 million of looted Dutch gold received by Switzerland, which considers it was included in Washington Accord and refuses to discuss the matter with the Dutch and the three Allied Governments, though they are reported willing to let the matter go to the International Court.

Albania - Claim for about \$1.5 million approved in principle, but payment to Albania awaits further documentation.

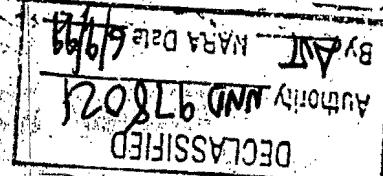
Czechoslovakia - Claimed gold amounting to \$50.6 million, of which a portion was disallowed.

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Box 62 IART-Looted Gold  
Rest + Claims Vol II

47-51



INCOMING TELEGRAM  
DEPARTMENT OF STATE

OR

SECRET

Gold - Park

FROM: Brussels

TO: Secretary of State

NO: 1538, October 6, 10 p.m.

FB AND BY FROM DASPII.

Commission this week considered remaining Czech and Italian claims.

A. Czech Sudeten Verus claim. Formally rejection ground gold never figured as part country's monetary reserve and therefore outside definition.

B. Czech claim for gold involved Sudetenland transfer.

1. Commission had before it brief submitted by French advisor which made following points: (A) Removal gold under conditions March, 1939 wrongful removal by Germany (B) However, Czechoslovakia suffered no real loss because in return for gold it received from Germany Czech crowns in same ratio to total circulation as gold here to total reserve. Since assets and liabilities Czech National Bank reduced simultaneously and returns bank remained balanced from technical banking and monetary standpoint Czechoslovakia suffered no gold loss; (C) As result re-incorporation Sudetenland 1945 which was accompanied by increase in note circulation without proportionate increase in gold cover Czechoslovakia suffered loss equal to sum gold necessary provide cover for additional notes on same basis as previous total covered; (D) However, since no data available on which figures of such loss could be established Commission faced with alternative disallowing claim because lack detailed and verifiable data or determining loss on arbitrary basis.

2. UK Commission agreed Czech suffered no loss in 1939 but argued developments 1945 irrelevant since even if loss occurred at that time could not have been as result German action.

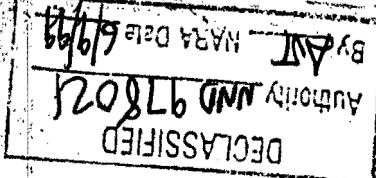
cc: 10/13/48 Messrs. Willie, Arnold, Miss Maloney, Olsen,  
Mrs. Miller, Pollack, Schwartzman, Schwartz,  
Eddy, Bittermann, Mint

RG 54

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Box 62 1A2A - Looted Gold -  
Rest + Claims Vol II

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222251

German action.

3. I agreed with Morton situation 1945 irrelevant but could not agree to argument Czechs suffered no loss 1939. Pointed out that if transfer gold Germany in 1939 conceded wrongful removal then in disallowing claim Commission would have been demonstrating such transfer did not constitute loss. French position seemed formalistic and based on disputable economic theory. Further it assumed Czechs could not reduce gold cover their currency whereas under circumstances existing 1939 clearly had legal and moral right cancel notes in Sudetenland without surrendering part gold reserve. Thus impossible maintain that return of Czech notes by Germans represented countervalue to gold removed.

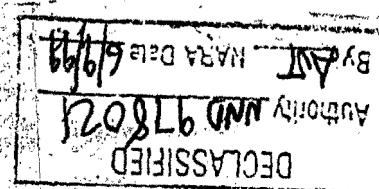
4. Off record UK French Commissions both agreed would be difficult write convincing opinion invalidating this claim particularly view political implications decision which could not avoid seeming uphold validity original transfer Sudeten territory. Morton stated willingness agree decision either way provided such decision supported by convincing opinion.

5. Believe no valid reason put forward for rejecting this claim and that Commission must ultimately approve. Morton pressing for early decision either way and appears possible French may cease oppose claim particularly if Commission agrees disallow claim discussed below. In these circumstances further delay notification Czechs as suggested Prague's 534 to Department will be difficult. Request Department's comments.

6. Claim for 12,769 kg gold for free reichsmarks.

1. Dorr has maintained that free RM did not represent countervalue since they could be utilized only for German licensed imports obviously designed for exclusive benefit German war machine. Commission finally accepted this thesis and was ready approve claim May. However, decision postponed on basis my suggestion that adequate documentation above thesis should be included in file.

2. In reply request for evidence this point Czechs stated that free RM used to cover imports earmarked "first and foremost" or "for greater part" for German plants and German population. Subsequently unable document this statement and French now argue Commission must either reject claim in toto because of lack detailed and verifiable data showing which portion imports went to Germans or attempt establish some arbitrary basis for determining what portion claim to admit.



222252

3. Martin again willing vote either way but seeking quick decision.

4. Believe that more plausible case could be made for disallowing this claim than Sudan and agreed off record that if French wish to submit draft opinion disallowing would be willing consider it though very dubious that conclusive case could be made. Upon receipt will forward this draft for Department's comments and instructions.

2. Italian Istanbli claim.

1. Italians have never demonstrated that 1,777 kg claimed in fact their gold. Available evidence shows that on transfer gold to Italy by Germany in 1942 Germans explicitly stated that gold was advance to Italy repayable in six months unless Germany spent portion of the dollars advanced by Istanbli to Reichsbank for German Embassy in Washington in which even portion of gold equivalent to dollar expenditure would be paid over Italy. No evidence such transfer had taken place prior to removal gold from Italy by Germany consequently removal by Germans appears recovery their own property and not wrongful removal Italian gold.

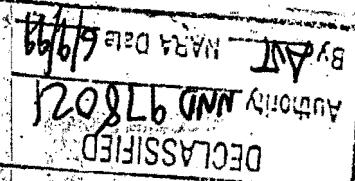
2. UK French commissions urged final disallowance but I asked for delay pending further request to Italians for evidence nature described paragraph 3 below.

3. Gold might possibly be argued to have been Italian property in unlikely event language of original agreement under which Italians advanced dollars Germany indicated transfer involved change of title. On this basis it might be contended that German gold advance to Istanbli a payment of outstanding debt and Italian ownership thus established. However, Italians have not complied with Commission's request last January for text of agreement and unless they provide required evidence within next few weeks will suggest a disallowance claim.

LIRE

MVS:GS

SECRET



DEPARTMENT OF STATE

OR

OUTGOING TELEGRAM

Gold - IARA

SECRET

September 29, 1948  
5 p.m.

US URGENT

AMEMBASSY,

BRUSSELS.

1395

1. Dorr and/or Dampit authorized give Bank of England permission requested para two London's 4283, September 27 to Department repeated Brussels 131.

2. Although Department shares BB Treasury opinion that court would uphold immunity account it is felt subject gold should be promptly allocated and transferred France. Soon as transfer effected Dollfus Mieg should be advised with additional statement that private claims not being adjudicated by Commission and are to be submitted to government of country from which gold was looted.

LOVETT  
Acting

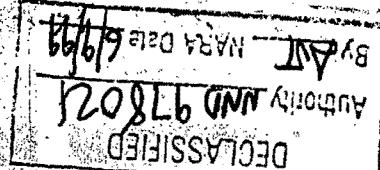
Code Room: Send to Amembassy Brussels 1395; repeat Amembassy London as 3202.

OPD: VEN: OFF Fletcherich Treas 9/29/48

cc: 10/5/48 Messrs. Willis, Arnold, Miss Maloney, Gleeson, Mrs. Miller, Mrs. Hoffenberg, Schwartz, Eddy, Bittermann, F. Smith

R657  
WCA-1039  
Box 62 IARA - Looted Gold -  
Rest. + Claims Vol. II

47-51



September 3, 1948

MEMORANDUM

To: Problems Arising in Connection with  
Looted Dutch Gold Acquired by Switzerland  
During the War.

All efforts of the Allies to obtain restitution from Switzerland of looted Dutch gold acquired by it during the war having failed, the Dutch Government is apparently considering the commencement of legal proceedings in the International Court of Justice or some other court to obtain restitution of this gold. In the attached cable 1/ the United States representative on the Inter-Allied Reparations Agency and on the Tripartite Gold Commission has requested advice as to the position which he should take in discussions with the Dutch on this matter. Three courses are open to him: (1) he can encourage the Dutch to bring such a suit; (2) he can maintain a neutral position; or (3) he may attempt to dissuade the Dutch from taking any further steps to obtain restitution of this gold.

I. Background of Problem

In order to determine the proper course for the United States Government, it is necessary to review in some detail the circumstances leading up to the present problem. By the United Nations Declaration of January 5, 1943, concerning forced transfers of property, the Joint Declaration of February 22, 1944, and adherence to Resolution VI of the Bretton Woods Conference, the United States squarely placed itself on record as being opposed to, and refusing to recognize, transfers of gold effected during the occupation of a country by Germany.

A. The Paris Reparations Agreement.

In the Fall of 1945 shortly after the end of the war the Allied nations met at Paris for a conference on reparations. The conference resulted in the so-called Paris Agreement on Reparation on the Establishment of an Inter-Allied Reparations Agency and on the Restitution of Monetary Gold of January 14, 1946. Under the Agreement an INTER-ALLIED REPARATIONS AGENCY (I.A.R.A.) was created, governed by an Assembly, consisting of representatives of each Signatory Government and a Secretariat. The Secretariat was to be composed of the Secretary-General and two Deputy Secretaries-General, appointed respectively by the Governments of the United States of America, France, and the United Kingdom. The Secretariat was to be international in character - "to act for the Agency and not for the individual signatory governments". The Secretariat was to be the administrative organ of the Agency and was given such functions as preparing programs for the allocation of German reparations, keeping accounts of assets available for, and of assets distributed as, German reparations, etc.

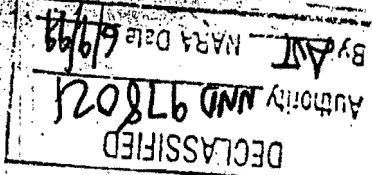
1/ See Exhibit 1.

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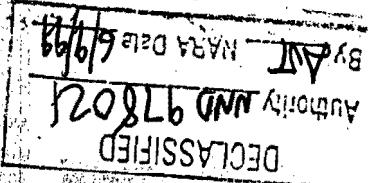
Part III of the Agreement provided for the establishment of a "gold pool" into which was to be "covered all monetary gold found in Germany and any monetary gold which may be recovered from a third country to which it was transferred from Germany". It was provided that the gold in the gold pool should be distributed among the countries participating in the pool "in proportion to their respective losses of gold through looting or by wrongful removal to Germany". The participating countries were to supply to the Governments of France, the United Kingdom, and the United States, as the occupying powers concerned, proof as to their gold losses suffered through looting by, or removal to, Germany and the three Governments were to "take appropriate steps within the zones of Germany occupied by them respectively to implement distribution in accordance with the foregoing provisions."

Resolution 2 adopted unanimously by the conference provided that "the Countries which remained neutral in the war against Germany be prevailed upon to make available for distribution in accordance with Part III of the foregoing Agreement all looted gold transferred into their territories from Germany".

#### B. Legal Basis for Negotiations.

The provisions of the Paris Agreement have been discussed in considerable detail because of their bearing on certain legal questions involved in the Swiss Accord and the question of the restitution of the Dutch looted gold. It will be noted that technically the three Governments were merely assigned administrative functions in connection with the distribution of reparations and of monetary gold and quasi-judicial functions in the consideration of claims of countries desiring to participate in the gold pool. As the occupying powers concerned, and the de facto Government of Germany, the legal authority of the three Governments to negotiate agreements with the neutral Governments for the liquidation of German assets is pretty well established at least according to one legal school of thought, although a number of the neutrals have refused to recognize the three Governments as the de facto Government of Germany. The authority of the three Governments to negotiate agreements with the neutrals for the restitution of looted gold, however, requires considerably more of a "stretch". This is especially so when it is considered that the three Governments have been negotiating such agreements on behalf of all of the signatory countries without referring such agreements to the Assembly of I.A.R.A. for acceptance.

Since the signing of the Paris Agreement the three Governments have in their own names and on behalf of the Allied Governments signatory thereto entered into agreements with Switzerland, Sweden, Romania, Spain, and the Bank for International Settlements which,



among other things, contain provisions for the restitution of looted gold. They have also been engaged in negotiations on this subject with Portugal and Turkey but so far have been unable to reach satisfactory agreements.

While the authority of the three Governments to negotiate settlements on looted gold is possibly subject to attack, Resolution 2 of the Paris Conference clearly indicated the intention on the part of the signatory governments that "somebody" should prevail upon the neutrals to make restitution of such gold. Moreover, the representatives of the United States Government who participated in the deliberations at Paris say that it was clearly understood that the three Governments would undertake the task of negotiating settlements on looted gold. If the authority of the three Governments in this respect is ever questioned in litigation it will, of course, be pertinent to examine the minutes of the Paris Conference on this matter.

On September 27, 1946, the Governments of France, the United Kingdom and the United States established a Commission known as the Tripartite Commission for the Restitution of Monetary Gold, for the purpose of implementing Part III of the Agreement, with its headquarters at Brussels. <sup>2/</sup> It has been the function of the Commission to administer the gold pool and to receive and scrutinize the claims of the various participating countries.

#### G. Negotiations with the Swiss.

##### 1. Background of negotiations.

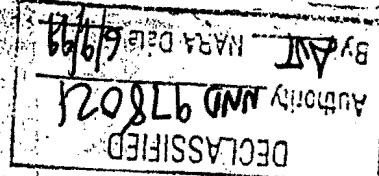
The Swiss Government was the first neutral country with which the Allies negotiated an Agreement on looted gold. The negotiations took place in Washington in the Spring of 1946.

On the basis of an examination of all available records and files in the Department it appears that the representatives of the three Governments had in their possession at the time of the negotiations the following information:

(1) From the records of the Reichsbank seized by the Allied military authorities it had been determined that during the war Germany shipped to Switzerland a total of at least \$395 million in gold;

(2) It was also ascertained from these records that at the beginning of the war Germany had only \$200 million of its own gold;

<sup>2/</sup> See Exhibit 2.



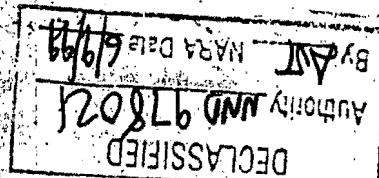
(3) A careful calculation established that even if the Swiss received in these shipments all of the non-looted gold available to the Germans during the war, there still remained an absolute minimum of \$155 million of looted gold received by Switzerland from Germany;

(4) The French, from whom the Belgian and Luxembourg gold had been taken by the Germans, had carefully worked up the case on the Belgian gold with copies of documents from the Reichsbank records and the Prussian Mint records tracing the Belgian gold bar by bar, in some cases through a process of remelting in the Prussian Mint, all the way to Switzerland. This documented case established that the Swiss received \$126 million of the Belgian gold;

(5) The negotiators also had a schedule based upon information received from various sources showing that the Governments of all of the occupied countries claimed to have lost by looting by Germany a total of 3579 million in gold. This table was broken down by country and showed in the case of the Netherlands a loss of 9161 million in gold (based upon official advice sent by the Netherlands Government to the Allied military authorities in Germany, containing a complete description of all gold removed by Germany). Also in the possession of the negotiators was a memorandum dated March 5, 1946, written by Dr. Fletcher of the State Department containing an estimate that Germany had looted from Holland a total of \$165 million in gold. However, the Allied negotiators apparently did not have in their possession documentary proof establishing which of the looted gold (other than the Belgian) was received by Switzerland.

#### P. Swiss Legal Position.

Although the amount of gold received by Switzerland from Germany was far in excess of Germany's known pre-war gold holdings, and although the Swiss were on notice by reason of the various Allied declarations that the Allies would not recognize transfers of property stolen by Germany, the Swiss in the negotiations firmly adhered to the position that they were under no legal obligation to make restitution of any of the gold acquired from Germany. (In connection with the negotiations concerning German property in Switzerland which were conducted simultaneously, the Swiss stubbornly refused to recognize the three governments as the de facto government of Germany and therefore would not recognize the legal validity in Switzerland of the AMG German External Assets Vesting Decree.) However, the Swiss finally agreed to make a "contribution" toward the reconstruction of the devastated European countries by delivering to the gold pool gold valued at 250,000,000 Swiss francs, or approximately

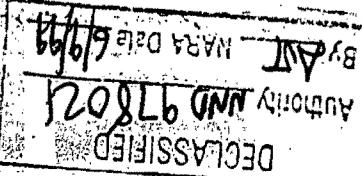


\$52 million. (An agreement was also reached on the liquidation of German holdings in Switzerland.)

In the negotiations Switzerland demanded a provision in the Agreement that the Allied Governments, in accepting the 250 million francs in gold, waived in their name and in the name of their banks of issue, all claims against Switzerland and the Swiss National Bank in connection with gold acquired during the war from Germany by Switzerland. Representatives of the Treasury Department vigorously opposed the acceptance of any such provision on the ground that Switzerland might have acquired other looted gold besides the Belgian gold, and that the very fact that the Swiss were so insistent upon such a provision was an indication that they probably did acquire other gold. However, the State Department felt very strongly that foreign policy considerations necessitated the reaching of an early agreement, even to the extent of accepting the waiver clause. The issue was thrashed out at a very high level and Treasury finally acceded reluctantly to the State Department's position. The Agreement reached with the Swiss on the German assets and on the gold payment, including the disputed waiver clause, was incorporated in an Accord of June 17, 1946, generally known as the "Washington Accord".

3. In ~~the~~ paragraph 1 above there has been set forth a description of the information available to the Allied negotiators. By "available" is meant the information which apparently was used by them in the negotiations. Unfortunately, additional information about the disposition of the Dutch gold was available to the negotiators in the sense that such information was actually in the hands of the United States Government. Shortly after the fall of Germany the Financial Section of the Allied Military Government had a large team which was in charge of dealing with the gold captured in the Merkers salt mine and other places in Germany and which processed the records of the German Reichsbank and subsequently the records of the Prussian Mint obtained from the Russians to determine the source of this gold and the destination of other gold shipped out of Germany. A number of Treasury men were engaged in this work: Colonel Bernstein, who was one of the chief financial officers in the Military Government; Andrew Kamark, one of the chief financial intelligence officers; and Donald Curtis, who was actually engaged in processing the records of the Reichsbank. The files of the Department show that Curtis prepared memorandums concerning his findings in the Reichsbank records. Two of these memorandums show that Curtis found documents proving that between \$38 and \$42 million in Dutch gold was shipped from Germany to Switzerland.

At the time of the Swiss negotiations Curtis had returned from the Army and was back in the Treasury Department. He



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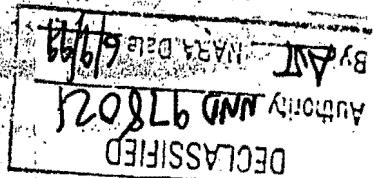
participated in the negotiations as a member of the Technical Subcommittee. Apparently no specific claim was made on the Swiss for the Dutch gold by the negotiators.

Furthermore, Mr. Vaidie, the French representative in the negotiations, had personally examined the Reichsbank records and the Prussian Mint records and had participated in the development of the case on the Belgian gold. It seems impossible to believe that in the work he did not come across numerous documents dealing with the Dutch gold which was also shipped to Switzerland. Yet apparently Mr. Vaidie, the chief financial representative, never mentioned the Dutch gold.

A cable of February 13, 1947, from OMBUS points out that the "Dutch furnished complete and detailed schedules of gold removed by Germany which schedules were available in Frankfurt prior to Swiss negotiations, together with records of Reichsbank sufficient to establish that major portion of Dutch gold was sent to Switzerland\*\*. It is noted that Curtis member of gold studies team attended meeting of committee on gold on 26 March 1946 \*\*."

In a memorandum of March 18, 1947, Joseph B. Friedman of the Legal Division refers to the OMBUS cable and to its implications that members of the gold studies team and particularly Curtis were responsible for not having raised the problem of looted Dutch gold during the course of the Swiss negotiations. Mr. Friedman strongly disagreed with this opinion and stated "During the course of the negotiations I discussed with Mr. Curtis the problem of looted gold and the investigations carried on in Germany. Mr. Curtis made it clear at all times that investigations of the looted gold problem had not been completed in Germany and that it was quite probable that the Germans had looted a great deal of gold from the Dutch and other countries." Friedman's memorandum went on to point out that he, Curtis, and other Treasury representatives urged the State Department not to abandon the "global approach" on all looted gold, and urged that the Agreement contain a clause "which would enable us to make further claim against the Swiss in event of the after-discovery of specific proof of the gold looted from other countries, including the Dutch." In both cases Treasury representatives were overruled by the State Department. Mr. Friedman concludes that no blame for failure to leave open the possibility of a claim against the Swiss for looted Dutch gold can be placed on Mr. Curtis or any other member of the DICA group which investigated the gold situation in Germany.

After the Swiss refused to accept the Allies "global approach" on the looted gold which was based upon the presumption of the amount acquired by Switzerland which must have been looted,



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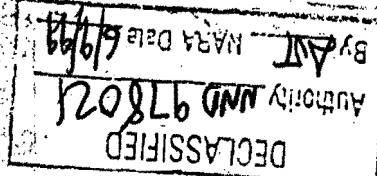
the Allies, being unprepared, were forced into a position of negotiating exclusively for the Belgian gold concerning which they had absolute proof. The Swiss although refusing to admit any liability for restitution of the Belgian gold, nevertheless bargained on the basis of the amount of the Belgian gold and the parties finally agreed on the compromise figure of 250 million Swiss francs (approximately \$58 million in gold) which was roughly one-half of the amount of the Belgian gold.

B. Discovery of Evidence After the Agreement.

Some time later, members of the Financial Division of the American Military Government who were processing the records of the German Reichsbank and the Prussian Mint, completed their analysis and came up with the result, substantiated by documentary evidence, that in addition to the Belgian gold the Swiss Government had received shipments of approximately \$135 million of the Dutch gold. This information was first brought to the attention of Orvis Schmidt of the Treasury Department who was at the time in Portugal participating in negotiations for the restitution of certain Belgian gold acquired by the Portuguese. The negotiations with the Portuguese had to be delayed to give the Allies time to develop the proof concerning the Dutch gold acquired by Portugal.

After Mr. Schmidt's return to the United States the documentary evidence concerning the disposition by Germany of the Dutch gold was discussed with the Department of State and was then brought to the attention of the British and French.

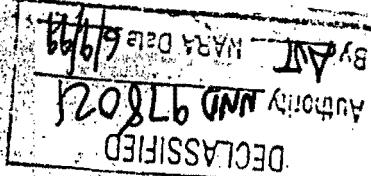
The three Governments decided that this evidence should be made available to the Dutch and that they were morally bound



to endeavor to obtain some restitution from the Swiss. However, it was agreed that no attempt would be made to void the Swiss Accord, but that the Swiss would be asked to recognize a moral obligation to make restitution of the Dutch gold. In this connection representatives of the Treasury Department had strongly urged the State Department to move to reopen the whole agreement on grounds that there was a mutual mistake of fact (or possibly fraud) in its inception. The State Department felt, however, that we had obtained valuable concessions in the Safehaven part of the Accord. Furthermore, the Swiss had already paid over the \$58 million in gold representing the compromise settlement for the Belgian gold, and a voiding of the agreement might have necessitated a return of this gold. Incidentally, the Safehaven portion of the Accord has not yet proved of much value to the Allies because the Swiss have raised one excuse after another for not liquidating certain important German holdings and, with respect to those which have been liquidated, for not making the proceeds available to the Allies. At the time of the writing of this memorandum the State Department is seriously considering a renegotiation of the Safehaven portion of the Accord. Strangely enough, however, the State Department still has no inclination toward voiding the gold part of the Agreement.

#### X. Attempt to Reopen Negotiations with Swiss.

After the documentary evidence was made available to the Dutch Government it sent a representative, Mr. Doest Von Linburg, Inspector General of the Netherlands Central Bank, with additional documentary evidence in the possession of the Dutch. A technical summary was made of the evidence tracing the gold bar-by-bar from the time it was acquired by the Dutch, through the hands of the Germans, including with respect to some of it the remelting in the Prussian mint, until it arrived in the Swiss National Bank. This technical summary with photostatic copies of the supporting evidence was sent to the Swiss. Shortly thereafter in accordance with an agreed plan the Dutch Government extended an invitation to the Swiss and the three Governments to meet on July 19 at The Hague "to discuss this recently acquired information". The three Governments immediately accepted the invitation. Shortly before the meeting was to take place a Swiss official informally advised a Dutch official that the Swiss Government was not going to attend the meeting. The Dutch Minister in Switzerland was immediately instructed to inform the Swiss Government that the Dutch Government demanded a formal reply to the invitation. Two days before the meeting was to take place the Swiss replied in a note declining the invitation and referring to the fact (1) that they had never admitted any legal obligation to make restitution of looted gold, and (2) that they had entered into an agreement with the three Governments, acting on behalf of all of the Allied Governments, wherein the three Governments



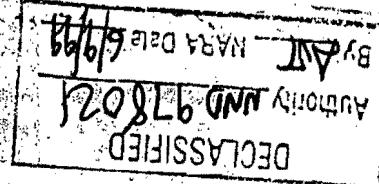
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waived all further claims against Switzerland for the restitution of monetary gold. Accordingly, the Swiss stated that there was nothing to be discussed on this subject at The Hague. The meeting at The Hague was cancelled after the Swiss declined the invitation.

The Swiss immediately issued statements to the press presenting their side of the issue. The Dutch press took up the matter and the Swiss Government was criticised in very bitter terms. Articles in both the Swiss and the Dutch press mentioned the possibility that in the event that the Dutch were to bring legal action and were to be successful against the Swiss, the three Governments might be held liable even to the Swiss for any amount which the Swiss were forced to pay to the Dutch. Articles in the Dutch press also questioned the authority of the three Governments to waive in the Swiss Accord the gold claims of other countries.

The Dutch had previously raised this question at the time when the three Governments were discussing with them the newly discovered evidence and had presented to the State Department an Aide Memoire to the effect that the three Governments were without authority to waive the Dutch claim against the Swiss. However, when the Dutch Minister discovered that the three Governments were willing to open discussions with the Swiss concerning the Dutch gold, he was quick to say that in view of this development the Aide Memoire should be disregarded. Nevertheless the Dutch Government is on record that they consider the three Governments without such authority.

For this reason, when the time came for the first preliminary distribution of the assets of the gold pool a receipt and waiver to be signed by each participating country was carefully prepared by Treasury and State. Under its terms, the participating countries agree that upon receiving their share of the gold pool they will waive all claims against the three Governments arising out of the execution of their mandate in collecting and distributing looted gold. It was felt that if the Dutch wanted to receive their share from the gold pool they would have to waive all claims against the three Governments. (Of course, the Dutch could not waive any claim which the Swiss might have against the three Governments. However, such a waiver in the hands of the Swiss would provide them with a defense against the legal action by the Dutch.) When the Dutch representatives arrived at Frankfurt to receive their share of the first distribution they balked at signing the receipt and waiver. Our representative on the Gold Commission was out-manoeuvred in this particular situation be-



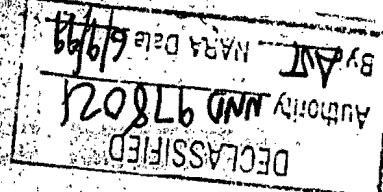
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cause he was induced by the Dutch representatives to sign a memorandum interpreting the receipt and waiver in such a way as to cast doubt upon its legal effect. /<sup>1</sup>/ This he did without referring the matter to Washington for approval. (He was afterward admonished by the State Department for his action.) The Dutch, therefore, again preserved their legal foundation for action against the Swiss and possibly against the three Governments, while at all times cooperating with the three Governments in plans for negotiating with the Swiss.

II. Position of the Three Governments in the Event of Suit.

Having explored at some length the background of the current situation with respect to the Dutch gold acquired by the Swiss, the merits of the three alternative courses of action mentioned in the first paragraph of this memorandum can now be considered. If the Dutch were to commence legal action against the Swiss either in the International Court of Justice or by an attachment proceeding in the courts of some nation where Swiss property is found, the United States, Great Britain and France would certainly be brought into the litigation, either by the Dutch in the first instance or by the Swiss after the suit was commenced. If the three Governments should decide that in such litigation they must uphold the validity of the Swiss Accord to which they are parties, it would be necessary for them to align themselves with the Swiss in taking the position that the suit is barred because they signed the accord as trustees acting on behalf of all of the Allied nations including the Dutch. The three Governments would also have to take the position that by the terms of the Paris Agreement and Resolution 2 they had full legal authority to waive the claims of all of the Allied nations. It is altogether possible that a court might find under such circumstances that there was a valid agreement between the three Governments on the one hand and the Swiss on the other hand, but that the three Governments lacked authority to waive the Dutch claim, in which case the legal basis would be laid for a suit by the Swiss against the three Governments to collect from them whatever they were forced to pay to the Dutch. In such an event it is not certain that the Swiss would be successful in collecting from the three Governments. Presumably they would have to prove damages and in a case where the additional amount which they were required to pay the Dutch represented stolen property received by the Swiss, it might be difficult for them to prove that they suffered any real damage, at least under the principles of law as to stolen property which are applied in the United States. Nevertheless this course of action would seem to be one likely to create a great deal of friction and do damage to the prestige of the United States and the other two countries in the eyes of both the Swiss and the Dutch. By

/<sup>1</sup> See Exhibit 3.



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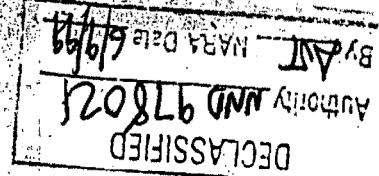
assisting the Swiss in defending an action brought by the Dutch, we would undoubtedly injure substantially our relations with the Dutch. Furthermore, if the Dutch were to be successful against the Swiss and we were to vigorously defend an action thereafter brought by the Swiss we undoubtedly would injure our relations with the Swiss.

On the other hand, the three Governments might take the position that the Washington Accord is voided because of breach of contract by the Swiss, and also possibly that it was void ab initio because of fraud, or mutual mistake of fact in its inception. Dr. Fletcher of the State Department who participated in the negotiations seems to think that, in statements made to the Allied negotiators, the Swiss were guilty of considerable deception as to gold acquired by them and other pertinent factual matters. I have been unable to find any evidence of this in the minutes. Furthermore, I think it would be almost impossible to find any proof that the Swiss knew that the particular Dutch bars that they acquired were looted, other than by the "global approach" wherein by subtracting the known gold holdings of Germany prior to the war, the Swiss must have known that all of the gold over \$200 million that they acquired was looted. Unfortunately the Allied negotiators knew this also and in spite of this fact signed an Agreement waiving all further claims against the Swiss. For the same reasons, it is difficult to see how very much of a case could be made on grounds of mutual mistake of fact either.

However, it would appear that the Allies have very good grounds for the position that the Swiss have failed to perform the Safehaven part of the Agreement and that therefore the Agreement should be considered voided.

It would seem that the United States and Great Britain could take this position without embarrassment since they have no direct interest in the gold to be delivered over by Switzerland as the result of the Accord. That is, Great Britain and the United States, since they lost no monetary gold, are not participants in the gold pool. In the eyes of a disinterested court it is felt the two countries would be considered from the standpoint of governments doing their best to assist the war-torn countries in salvaging some of their lost gold reserves. On the other hand, regardless of the legal merits, the Swiss would appear as a country profiting from trade with both sides, receiving payment in gold (a substantial amount of which was stolen from its neighbors), while suffering no physical damage from the war. From all standpoints it would appear that in taking such a position, the equities would be substantially in favor of the three Governments.

One further fact deserves special attention. Under present arrangements any acquisitions of looted gold are supposed to be covered into the gold pool for distribution on a pro-rata basis in accordance with the losses of the respective countries. Under this situation, whatever the Dutch recover from the Swiss would not go to the Dutch, but would go into the pool. As the biggest loser of monetary gold,



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France gets approximately one-half of all accessions and the Dutch get substantially less than one-quarter. If the Dutch have to go to the lengths which apparently will now be required to obtain the return of their gold, it would seem that as a minimum the gold pool should reimburse them for their expenses. Possibly also arrangements should be made to allow the Dutch under these particular circumstances to receive a larger pro-rata share of any gold which they are successful in collecting from the Swiss than they would normally be entitled to. These, however, are details which could be worked out at a later stage.

In conclusion, it seems that it would not be a good policy for the United States or Great Britain and France to unduly encourage the Dutch to commence legal proceedings against the Swiss. On the other hand, it would seem that morally we are bound to give the Dutch, if they strongly desire, an opportunity to obtain restitution of their gold. For this reason, it is felt that, in the first instance, this Government should adhere to a firm policy of not attempting to interfere in any way with efforts of the Dutch to bring legal proceedings against the Swiss if they so desire. Pursuance of such a policy should, however, be upon condition the Dutch agree that in such litigation they will not contest the authority of the United States, the United Kingdom and France to negotiate the Washington Accord on behalf of all of the Allies, and that they will indemnify the three governments for any liability over to Switzerland. It is believed that discussions to obtain agreement from the Dutch on these points should be commenced at the first opportunity. If the Dutch agree and insist upon going ahead with litigation against the Swiss, it is felt that we should seriously consider assisting them by taking what ever steps are available to nullify the Swiss Accord, e.g., declaring it void for breach of contract, or void ab initio because of fraud or mistake of fact in its inception.

Some may find it very hard to accept a position which at first blush has the earmarks of the United States Government reneging on its contractual obligations. However, it must be remembered that as a whole the Accord was a very favorable compromise agreement for the Swiss. It must also be remembered, that with the exception of the gold payment, the Swiss have absolutely failed and refused to carry out their obligations under the Safehaven portion of the Accord. They have not liquidated German property in accordance with the terms of the Agreement (many important German interests have been excluded through various devices), they have raised false obstacles to performance, especially in taking an entirely unreasonable position on the exchange rate issue, and there is every indication that even if the Allies were to meet the Swiss position on the exchange rate issue, the Swiss would think of some further obstacles to delay performance on their part of their obligations under the Agreement. On this basis alone it is felt that the three governments have sufficient grounds for voiding the contract at this time on the grounds that the Swiss have failed to perform.

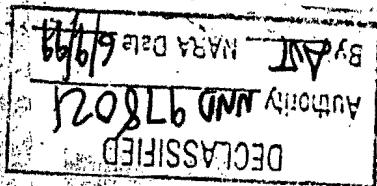
If we take the position which is recommended in this memorandum, it is felt that any litigation brought by the Dutch may not be carried to a conclusion. The Swiss may find that it is to their interest to sit down with representatives of the three governments and of the Dutch and attempt to settle by compromise the outstanding problems.

This could result in a compromise settlement on the Dutch gold and on the outstanding problems with respect to the Safehaven Accord.

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INCOMING TELEGRAM  
DEPARTMENT OF STATE

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FROM: Brussels

TO: Secretary of State

NO: 1659, August 31, 3 p.m.

BY WP FROM DODR.

IARA

1. Swiss press 14th, 15th August, including JOURNAL DE GENEVE, BASLER NATIONAL ZEITUNG, and NEUE ZURCHER ZEITUNG, carried Swiss news agency report that officials Netherlands Finance Ministry in questioning allied powers' authority to negotiate gold settlement with Swiss stated intention bring allied powers before International Court since presumably if court decided such powers exceeded authority it might order payment of indemnity to Netherlands.
2. Gold Commission was planning deliver Netherlands order for 30 tons gold next week. This will be last large payment Netherlands. In view press reports query advisability making any further substantial gold restitution Netherlands unless latter simultaneously waives any possible claims against allied powers amount Washington accord.
3. Advise urgently.

Sent Department 1659; repeated The Hague 89.

KICK

DMS: CB

CONFIDENTIAL

cc: 9/7/48 Meeker, Gunter, Arnold, Schwartz (3), Maloney, Willis, Mint, Schwartz, Mddy, Rittermann, Govirts, P. Smith

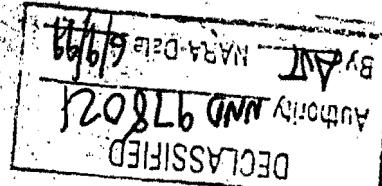
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PER PARAS 511 and 60a (4), AR 380-5

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From: OMCUS Berlin Germany c/o Hays

To: Dept of Army for GSODA

Br: CC 5006

2 July 1948

Following is text of press release embargo for release at Berlin at 1200 hours Saturday, 3 July, concerning shipment of monetary gold:

1. "The Office of the Finance Adviser, OMCUS, announced today that more than 100 tons of gold is being transferred from Frankfurt/Main, in the American Zone of Germany, to England in a combined shipment by the United States Military Governor and the Tripartite Commission for the restitution of monetary gold with Headquarters in Brussels. This gold, which is purely monetary in nature, consists of coins and bars and will be held at the Bank of England for the account of Tripartite Commission.

2. "The shipment was made at the request of the Tripartite Commission and in execution of the Paris Reparations Agreement, which was concluded on 24 January 1946 between the United States of America, the United Kingdom of Great Britain and Northern Ireland and the British Dominions and the following European countries: Albania, Belgium, Denmark, France, Greece, Luxembourg, Norway, The Netherlands, Czechoslovakia and Yugoslavia.

3. "This international agreement established the "gold pot" principle: all monetary gold found by the Allies in Germany will be collected in one pool to be redistributed on a pro rata basis among the countries which were able to establish the loss of specified quantities of monetary gold as a result of German looting. During her war of aggression, Germany had looted hundreds of millions of dollars worth of monetary gold, but only part thereof has been recovered.

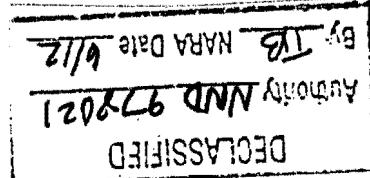
cc: 7/9/48 Messrs. Gunter, Arnold, Shwartz (3), Nelson, Abramson, Brown, Willis, Schwartz, Eddy, Bittermann, Gewirtz, F. Smith, Mint, Maloney, Holzman, Miller, Pollack

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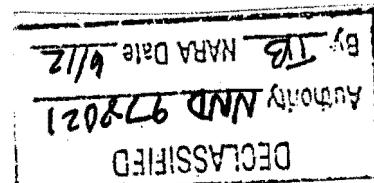
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4. "On September 1945 the Tripartite Commission for the restitution of monetary gold, composed of three members nominated respectively by the Governments of France, Britain and the United States, was set up in Brussels to examine claims for the return of looted gold and to determine the share to be allocated to claimant. Allocations have so far been made to Albania, Austria, Belgium, Czechoslovakia, Italy, Luxembourg and The Netherlands.

5. "The allocations already made having exhausted portion of the pool of monetary gold held at Frankfurt, which was in good delivery form, the decision was made to transfer the remainder to the Bank of England where it could be assayed and, if necessary, remelted . . . transferred to the Bank of England has been stored at the Foreign Exchange Depository Group, was in charge of the shipment as the representative of the United States Military Governor."

CM IN 630 (3 Jul 45) DSC: 0818102 ear

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April 18, 1948

MEMORANDUM FOR THE RECORD

Re: Inquiry From the House of Representatives  
Armed Services Committee.

On April 13 there was referred to me by Mr. Lynch's office a telephone call from a Mr. Brown of the staff of the House of Representatives Armed Services Committee. After some preliminary questions Mr. Brown stated that he would be quite frank and tell me that some members of the Committee were concerned about newspaper reports that the gold held by the United States now at Frankfurt was being shipped to London and New York via Pan American Airlines and they wanted to know why (a) Army transportation was not being used, and (b) surface transportation was not being used instead of air. He said they had directed a written inquiry to Secretary Forrestal on this question and received the reply that arrangements for the shipment were not made by the Army but were made by the Tripartite Commission in New York. Mr. Brown asked me first whether the gold had already been shipped.

I told him that to my knowledge the gold had not as yet been shipped, but shipment was scheduled to take place any day now. Thereafter I went into considerable detail in telling him what I knew about arrangements for the shipment of the gold because in my opinion the facts are very convincing and nothing can be gained by an evasive attitude. I explained that pursuant to the Paris Reparations Agreement of January 1946, representatives of the Governments of France, the United Kingdom and the United States, acting as the Tripartite Commission, were given the task in a fiduciary capacity of securing the restitution of looted gold acquired by the neutrals from Germany during the war, covering the same into the gold pool and distributing the gold in the pool to the various allied Nations from that gold was looted on a private basis in accordance with their losses. After it was determined that the gold would be shipped to London and the United States, I told him, we were requested by the Tripartite Commission to find out whether Army transportation was available, what it would cost and also to get rates on transportation by airline and commercial vessels.

I pointed out to Mr. Brown that in discussions on this subject officials of the Army were reluctant to undertake the transportation of the gold, since it was not for the account of the United States Government, in view of substantial criticism by private shipping lines and some members of Congress of past shipments of this character by the Army. The grounds of the complaints were apparently that the Army was competing on an unfair basis with private transportation facilities. It also appeared from conversations with the Army that most of the vessels which they had available did not have "approval

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By TB NARA Date 6/12  
Authority NND 978021  
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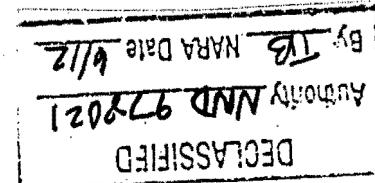
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strong room" and therefore the shipments on Army vessel would be subject to very high insurance rates, the rates being 2 1/2 cents per \$100 value on vessels with an approved strong room and 3 1/2 cents per \$100 on vessels without an approved strong room. I told him that we were also informed by the Army that, at the insistence of the Congress, they are having to establish a new formula for determining the charges to be made for shipments of this character which would more nearly approach the actual cost of shipment including overhead, depreciation, and items of this character. The Army was therefore unable to quote a price for the shipment and stated that it would be some period of time before they would be able to quote a price.

I further informed Mr. Brown that in the meantime the New York Federal had obtained rates from a number of airlines and steamship lines and it was found that the airline rates were substantially cheaper than the steamship rates. I told him the lowest airline rate was 44 cents per \$100 value, including insurance, and that three airline rates were lower than the lowest steamship rate obtained. I pointed out that in view of the high insurance on Army vessel transportation it was also apparent that the airline cost would be cheaper than shipment by Army vessel.

I emphasized to Mr. Brown that we were only assisting the Tripartite Commission by obtaining this information which was passed along to the Commission in Manila, and that it was the Commission which entered into the agreement with the airline. The final contract, I said, might have been at a lower rate than the ones furnished to the Commission in view of the competition among the airlines for the business and the amount of gold shipped.

Mr. Brown asked me why the Army could not ship the gold by plane. I said that this was discussed with the Army and we found that it did not have sufficient planes available to transport the gold in the small amounts required to obtain insurance coverage. Mr. Brown then asked me how the expenses of the Tripartite Commission and of the shipment of the gold were paid and I told him it was my understanding that they were paid out of the gold in the gold pool through the sale of some of the gold to the United States, and the use of the dollar proceeds for the payment of the expenses of the Commission. However, I pointed out to him again that the State Department was administratively in charge of our representatives on the Tripartite Commission and he should get a definite answer from them on this question. He then asked me if any of the expenses of the Commission were paid out of United States Government appropriations and I replied that I did not think so but I could have to refer him to the State Department on this question.



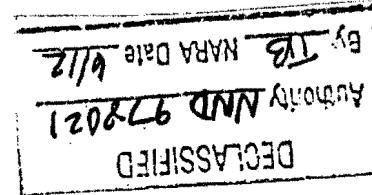
-3-

Mr. Brown appeared to be completely satisfied with my explanation of the details of the arrangements for the shipment of the gold and thanked me for my cooperation. I called Mr. Fletcher of the State Department who is in charge of the gold work there, and told him of the conversation. He expressed complete satisfaction with the information which I had given Mr. Brown.

In connection with the foregoing, one fact has always puzzled me. Of the airline rates which we supplied to the Comission the lowest rate was quoted by American Overseas Airlines and Pan American was the third lowest rate quoted. I was, therefore, very much surprised to learn that the contract was awarded to Pan American. It is, of course, possible that in the negotiations in Brussels Pan American was able to meet and better the rates quoted by the other airlines.

cc: Nease, Lynch, Spingarn, Arnold, Schwartz and McNeill

Remittance 4/14/48



January 20, 1948

Memorandum re Shipment by Tripartite Commission of  
Frankfurt Gold to the United States.

The United States Commissioner on the Tripartite Commission requested in a cable No. 70 of January 13 that we obtain a definite answer as to whether the Army can provide transportation for (a) 22 tons of gold and (b) 104 tons. The former figure apparently represents the Austrian share in the preliminary distribution and the latter the remaining gold in the gold pool.

A meeting was held at the Pentagon in the office of Lt. Col. W. B. Gullion. Present were a number of officers representing the Army Transportation Division, the Legal Division, etc. It was announced that they thought there was a good chance that the Army could transport the gold at cost providing a formal request was received from the State Department. It was pointed out that under new regulations the Army now had to figure cost more or less on a commercial basis and that this was the first request of this type to be handled on this new basis. Accordingly, the Army was not prepared to give us an estimate as to what the cost would be. (It was my impression that it might be some time before the Army would be able to provide us with such an estimate.) I pointed out that the cost of shipment of the gold was a very important item to Austria and to other countries participating in the gold pool since it directly affects the amount of their share in the distribution thereof and I expressed the opinion that the Tripartite Commission could not approve the transportation of the gold by the Army until they had an estimate as to its cost. The Army said that they would commence to work on this matter immediately.

It was pointed out to the Army that inquiries to insurance underwriters brought responses indicating that insurance could be obtained on a maximum of \$16 million on any one vessel and that this would therefore involve separate shipments on 7, 8, or 9 ships. I also pointed out that according to our information the low insurance rates could be obtained only if the gold were shipped on a vessel of an approved type (G-2 or better) containing an approved strong room.

The Transportation Officer indicated that on the basis of maximum shipments of \$16 million per ship they could probably transport all of the gold to the United States over a period of 90 days by approved type of vessel. However, he doubted whether all of the vessels would have approved strong rooms. He said that their ships would either provide a locked room for each shipment of the gold or the gold would be welded into the deep tanks in the hold and said he should ascertain whether such arrangements would meet the requirements of the insurance underwriters.

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Box 62 IARA - Looted Gold -  
Rest + Claims USL 11

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By	TB	NARA Date	6/12
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He then said that the Army could have to know (1) how many packages there would be; (2) the cubic footage and weight of each package, and (3) the date when all of the gold would be available at Bremerhaven for shipment.

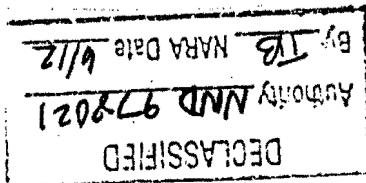
It was indicated that it would be quite a job to ship this gold by 7, 8, or 9 ships and they would much prefer to ship it all on a fast passenger transport and suggested that we might consider the idea of shipping it all in this manner without insurance coverage;

I stated that I did not think this would be at all possible in view of the fact that the United States Government was not the owner of this gold, and I did not feel that this Government or any agency thereof would be willing to take the risk of loss with respect to such gold. I said I felt sure that the Tripartite Commission would never approve the shipment of the gold without insurance.

The meeting at the Pentagon was adjourned on understanding that I would immediately attempt to obtain the information requested by the Army and they would commence work to obtain an estimate as soon as possible concerning the cost of ~~insuring~~ the gold.

Following the meeting I called Mr. Lang at the New York Federal Reserve Bank and discussed a number of questions which had been raised. Mr. Lang pointed out that the type of accommodation which the Army said they would have for storing the gold on these ships would not meet the insurance company's specifications of approved ~~strongroom~~. He said that he would send me immediately by mail the insurance company's requirements in this respect, pointing out, however, that an approved strong room must have such features as a combination lock, with the room being an integral part of the vessel, constructed of steel plating of a certain thickness, etc. He said that the basic insurance company rates on an approved vessel with an approved strong room were 29 $\frac{1}{2}$  cents per \$100 value and without an approved strong room 31 $\frac{1}{2}$  cents per \$100 value. Mr. Lang then went on to point out to me that from what I had told him of the discussion with the Army it appeared to him that this gold could be shipped cheaper and faster by commercial transportation. He quoted me the following rates which the New York Federal Reserve Bank had received:

1. Seaboard and Western Airline. This company quoted a rate of 11 cents per \$100 value, not including insurance. The New York Federal Reserve Bank is now investigating to make sure that this airline could obtain the normal insurance rates on such shipments which vary between 25 and 26 $\frac{1}{2}$  cents per \$100 value. If this low rate could be obtained and he thinks it can, the over-all cost of shipping by this airline would be between 36 and 37 $\frac{1}{2}$  cents per \$100. This airline, pursuant to license from the C.A.B., is now operating nonscheduled flights, two a week between New York and Frankfurt, handling cargo to Frankfurt and return for the Army Service Exchange. It has 5 D.C. - 4's.



2. Pan-American Airlines has quoted an over-all cost of 53 cents per \$100 value.

3. American would handle gold shipments for something slightly less than Pan-American probably around 45 cents per \$100 value.

From the foregoing it can be seen that if the Tripartite Commission, for example, could contract with the Seaboard and Western Airlines for the shipment of this gold at an over-all cost of between 36 and 37 1/2 cents per \$100, this over-all cost would be only 6 1/2 cents to 8 cents above the cost of insurance if the gold were to be transported by Army vessel. It seems clear that the insurance plus the Army's cost of transporting the gold would run higher than the over-all cost of shipment by airline.

Moreover, if one considers the length of time required to transport the gold by army vessel as compared with the time for air shipment, the tremendous amount of red tape necessary to arrange for Army transportation and the danger of adverse public comment especially by the commercial air and steamship lines if this gold were to be transported by Army vessel, there would appear to be no advantage in shipment by Army vessel.

Accordingly, I asked Mr. Lang of the New York Federal Reserve Bank to obtain as soon as possible a definite answer as to the insurance rates on shipment of this gold by the Seaboard and Western Airlines, as well as firm over-all rates for shipment by Pan-American and American. Dr. Fletcher and I have agreed that as soon as this information is obtained we will get off a cable to the Tripartite Commission pointing out the difficulties, delays, and expenses if this gold is transported by Army vessel and advise them of the apparently satisfactory rates quoted by the commercial airlines.

cable also:

① some word  
from Army  
on whether it  
could be done  
for 5 1/2 - 6 +  
or less.

② suggest  
commercial  
airlines or  
steamship  
might make  
lower rates

Mr. Lang also gave no figures on the commercial steamship rates for such shipments. These were substantially higher than the airline rates and accordingly are not being considered at the present time.

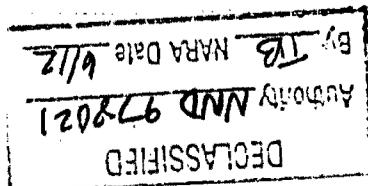
#### Addendum

The New York Federal Reserve called and advised that the insurance company's definition of an approved strong room is as follows:

trans p. my "A steel compartment with regular vault or safe type door designed for the carriage of bullion, specie, and valuables which is an integral part of the vessel, said compartment having either combination safe lock or other approved type key lock or locks."

It is clear from this that the facilities provided on Army vessels would not meet the insurance company's requirements. It would therefore appear that shipment by Army vessel could be made only at the higher insurance rate of 37 1/2 cents per \$100.

FBSmith:rs 1/20/48



DEPARTMENT OF STATE

GR

CUTTING TELEGRAM

AMEMBASSY

JUN 15 1948

1A RA #2  
gold file

BRUSSELS

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FOR DIER

If Commission perceives no objections (URTEL 1075, May 26) Dept prepared make written reply to Otten's new attorney pointing out, a) US deals with Govt claims only and US has not filed any claim for looted gold; b) Otten has, on basis of his own presentation, no claim to the gold bars sold by him to German Reichsbank early 1933 since this sale obviously occurred as a consequence of German Foreign Exchange Regulation 1932 which like similar regulations in most other countries called in gold in monetary form from its nationals and alien residents alike without discrimination against any special group; c) it is assumed Otten received official market price in Reichsmarks which at that time represented full equivalent or at least as good an equivalent as anyone in Germany ex., for that matter, in any other country received for gold delivered to the govt.

It is felt appropriate for Dept to make reply since Otten is now a US citizen. However, Dept, in agreement with your opinion, intends to add para stating that listed by him not rpt not in possession of Commission.

This is also general line Dept will follow should similar cases come up in future.

MARSHALL

FH:OFFLetcher/jo MP OVB Le/E  
6,10/48

CONFIDENTIAL

cc: 6/18/48 Nease, Ginter, Arnold, Schwartz (J), Maloney, Willis, Wood, F. Smith, Gowirts, Schwartz, Eddy, Bittermann, Mint

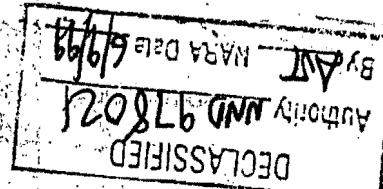
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Box 12 IARA - Looted Gold -

Rest + Claims Vol. II

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Please

Mr. Southard  
R. J. Schwartz

June 4, 1948

During the recent negotiations on looted gold conducted in Washington by the State and Treasury Departments with the Bank for International Settlements, it was agreed to furnish certain additional proof to the B.I.S. on the 2nd Dutch gold smelt. It was because of the proof shown to Mr. Gaison of the B.I.S. on the 3rd Dutch guilder smelt and the promise to furnish the same proof for the 2nd smelting that the B.I.S. agreed to reconstitute the total Dutch looted gold which it had acquired. The total looted Dutch gold is, by fine killograss, equivalent to 199 bars of which 35 bars are from the 3rd smelting and 88 bars from the 2nd smelting. In view of this commitment made by the Treasury to the B.I.S. and in view of the expected negotiations with the Swiss on looted Dutch gold, and the pertinence of complete proof on the Dutch guilder smelts for negotiations with the Swiss, it is believed every effort should be made to obtain the data on Dutch guilder smeltings from the Prussian Mint and Reichsbank records in the Foreign Exchange Depository, Frankfurt, Germany.

This was discussed at a meeting which I attended on May 23rd at the State Department and it was agreed by the State Department in view of cable, C6043P of 24 May 1948 from GNSUS, that Mr. Hesse of this Division should go to Frankfurt to assemble the necessary data. Reference cable from GNSUS stated that because of personnel reductions and the desire to terminate work at the Foreign Exchange Depository as of July 1, it would not be possible for them to prepare a schedule on the Dutch guilder smelts as I had requested while in Frankfurt. Mr. Albert Thoms, now an employee of the Deutscher Zentraler, will be available at least part time to assist Mr. Hesse in Frankfurt. Thoms is the former Chief Cashier of the Precious Metals Department, Reichsbank, and is most familiar with the Frankfurt records. Mr. Hesse has done considerable work in Washington on and is familiar with the Reichsbank and Prussian Mint records. It is estimated that with the proper stenographic and photostatic facilities in Frankfurt the work could be completed in a three week period.

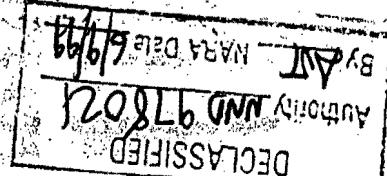
It is suggested that the attached cable be sent immediately to GNSUS.

Attachment

DWS:ms 6/4/48

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Box 62 VAR - Looted Gold -  
Reft & Claims VSL-H

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ENCLOSURE SHEET I  
DEPARTMENT OF STATE

SECRET

FROM: Brussels

TO: Secretary of State

MU 1137, June 3, 5 p.m.

US MURKIN

OK, DS FROM DODD.

Re MU 1137 to Prague May 21, repeated Brussels for Dodd as 172 and Prague's 534 to Department May 25, repeated Brussels for Dodd as 5.

1. Parts of Czechoslovak claim on which commission has not yet acted as follows:

A. 12,763 kg., amount deducted from claim pending decision as to whether free reichsmarks equivalent this amount received by Czechoslovakia might be considered counter value. Commission has already provisionally decided no deduction should be made. Final decision postponed pending receipt further evidence requested.

B. 3,397 kg., deduction from total claim representing acquisitions by Czechoslovakia of German gold in Switzerland. Provisionally decided no deduction appropriate but final decision delayed pending receipt evidence that Czechoslovakia gave counter value for this gold.

C. 14,536 kg., representing cover of Czechoslovak notes in Sudetenland turned over by Czechoslovakia to Germany incidental to transfer of Sudeten territory under Munich. As Department aware, I have taken position this claim valid. Approval hitherto prevented by French objections. Following recent developments have not pressed French further and have agreed despatch letter drafted by French asking proof of fairness in transaction, and data concerning general monetary effects both of loss of Sudetenland and its recognition after war—particularly effect these developments on monetary circulation and on recovery of gold and foreign exchange. Equivocal British position summarized MU 1137 April 26 to Department

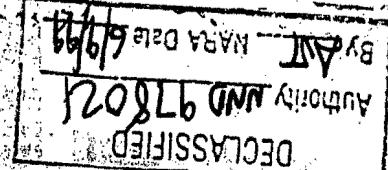
cc: 6/1/48 Meany, Gunter, Arnold, Schwartz (3), Maloney, Willis, Hood, Mrs. Dunn, P. Smith, Covino, Pollack, Schwartz, Eddy, Rittermann, Miller, Mint

RHS

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Box 62 IARA-Looted Gold  
Recd. + Claims VSL 1

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D. 1,000 kg., acquired from Skoda Works and transferred Germany through Czechoslovak National Bank. Likely to be disallowed unless further evidence forthcoming to demonstrate this gold actually part of country's monetary reserve.

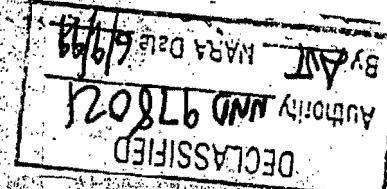
Items A, B and C, which in my judgment legally allowable, total approximately 30,703 kg.. On assumption gold pool will ultimately include about 7000 kg Swedish gold and that certain pending claims which appear clearly unfounded will be disallowed total reallocation on account of claims seems likely run about 60 percent. (This figure takes no account possible receipts from Portugal) thus Czechoslovakia might receive additional allocations totaling about 15,000 kg.

2. Is this possible allocation Prague Embassy appears suggest either:

- A. Commission should indefinitely delay action, or
- B. That when claims are paid, USA should freeze Czechoslovak credit.

3. Appears possible delay commission action for perhaps two to three months but hardly longer without bringing commission into disrepute and casting doubt on judicial character its action. In view quasi-judicial functions doubt commissioners would feel able take purely political position.

4. Is US, as Department observes reference telegram, if USA to freeze funds allocated by commission, such funds must be within USA jurisdiction. Even though as stated NYML 1099, May 22 to Department, consider only possibility diverting any Frankfurt gold New York would be limited to Yugoslavia set aside, appears it might nevertheless be possible build up New York Federal account sufficiently cover Czechoslovak allocation. About 9000 kg now remain on deposit; commission has already voted deposit Swedish gold New York, and believe adherence this decision could be secured despite changed conditions since made. Thus sum New York Federal would be 15,000 kg. Account would then be adequate pay bulk possible Czechoslovak allocation and if possible Portuguese gold also transferred, all of it. If gold under Swedish and Portuguese agreement should be made available within three months, believe approval of claims could be prevented before end of period.



5. This course would introduce certain complications since commission had intended use New York Federal gold to pay Italian allocation to Italy, France, French, Italian payments would be delayed until Frankfurt gold shipped London. However, hope this movement will begin within two weeks and distributions from it within month.

6. Although, as indicated above, considerable delay in commission could be plausibly managed to not see how this could be utilized by USA to bring direct pressure on Czechoslovakia without serious damage commission's position as impartial tribunal and casting doubt on its work in other cases. Moreover, while agreement completely Prague's analysis Czechoslovak reaction and USA bargaining position vis-a-vis Czechoslovakia suggest even broader issues involved. If USA stands for rule of law and order in international relations can it violate trustee and treaty obligations freely assumed without damage to its position of moral leadership? Share Department's opinion that only possible way of USA using gold as leverage on Czechoslovakia would be after commission has allocated gold, placing it to Czechoslovakia's account within jurisdiction of USA. In return for such allocation commission would require full receipt and waiver from Czechoslovakia, thus eliminating possible charge of breach of Paris agreement or risk of appeal to International Court of Justice. Matter would then be one between USA and Czechoslovakia, gold being in position so different from any other type assets possessed by Czechoslovak Government in USA.

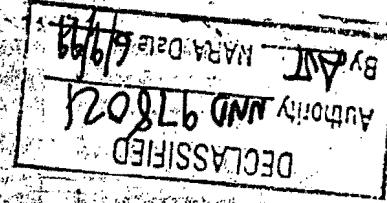
7. Further paragraph five above, French have now made formal request that commission allocate them as large a portion as possible from New York Federal. Believe this request could be legitimately resisted on ground that they have already, in preliminary distribution, received more than proportionate share of total payment in New York City but would not wish take this position unless Department considers desirable. Please advise secret.

Sent Department 1137; repeated Praha 9.

KIRK

BMS:BIG:RMS

SECRET



# INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS

TELEGRAPH BRANCH

17

CONFIDENTIAL

*J Hold - 1A R<sup>1</sup>*

Action: OFD

Control 5808

Info:

Rec'd July 16, 1948  
7:30 p. m.

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FROM: Brussels

TO: Secretary of State

NO: 1458, July 16, 9 p. m.

EP AND FN FROM DASPII

(1) UK Commissioner has officially informed Commission that declaration British occupation authorities in Germany that accordance reparation agreement they held available 2,117,070 kgs. monetary gold in error. States "list is indeed a list of bars and coins held under law No. 53 but further examination the gold circumstances under which it was held by German banks and safe deposits concerned and books of Reichsbank have shown to British Zone authorities and to His Majesty's Government that this gold is not eligible for inclusion pool monetary gold. The gold in question is in fact nonmonetary gold and will be dealt with accordingly." Concludes with statement that no gold of any kind in UK Zone eligible for inclusion in pool.

(2) For Department's information observe that UK Commissioner has been for some time sensitive to any discussion of gold availabilities in zones and has vigorously resisted any suggestion that Commissioners might take initiative with their governments to achieve uniform application definition of monetary gold in occupation zones.

(3) Does Department have information as to whether law 53 gold included in CMGUS declaration to Commission? Final declaration included over one million dollars in coins not previously declared.

KIRK

RSP:WH

CONFIDENTIAL

INFORMATION COPY

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W6A-1039  
Box 62 1ARA-Lotus Gold  
Rest + Claims USL II  
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Authority	INFO 978021
By	NARA Date 6/4/99
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CR

PRIORITY

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

Qak1

From: ONGUS Berlin Germany egi Hays

To: Dept of Army for GCOAD

Br: cc 5006

2 July 1948

Following is text of press release embargo for release at Berlin at 1200 hours Saturday, 3 July, concerning shipment of monetary gold:

1. "The Office of the Finance Adviser, ONGUS, announced today that more than 100 tons of gold is being transferred from Frankfurt/Main, in the American Zone of Germany, to England in a combined shipment by the United States Military Governor and the Tripartite Commission for the restitution of monetary gold with Headquarters in Brussels. This gold, which is purely monetary in nature, consists of coins and bars and will be held at the Bank of England for the account of Tripartite Commission.

2. "The shipment was made at the request of the Tripartite Commission and in execution of the Paris Reparations Agreement, which was concluded on 24 January 1946, between the United States of America, the United Kingdom of Great Britain and Northern Ireland and the British Dominions and the following European countries: Albania, Belgium, Denmark, France, Greece, Luxembourg, Norway, The Netherlands, Czechoslovakia and Yugoslavia.

3. "This international agreement established the "gold pot" principle: all monetary gold found by the Allies in Germany will be collected in one pool to be redistributed on a pro rata basis among the countries which were able to establish the loss of specified quantities of monetary gold as a result of German looting. During her war of aggression, Germany had looted hundreds of millions of dollars worth of monetary gold, but only part thereof has been recovered.

cc: 7/9/48 Meers, Gunter, Arnold, Shwarts (3), Nelson, Abramson, Brown, Willis, Schwartz, Eddy, Bittermann, Gewirtz, V. Smith, Mint, Maloney, Holzman, Miller, Pollack

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Box 62 IARA - Looted Gold

Rec'd. + Claims JSL:11

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Authority NWD 978021  
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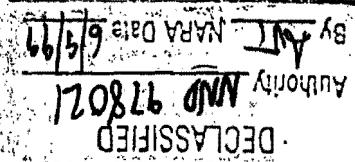
REPRODUCED AT THE NATIONAL ARCHIVES

4. "On September 1948 the Tripartite Commission for the restitution of monetary gold, composed of three members nominated respectively by the Governments of France, Britain and the United States, was set up in Brussels to examine claims for the return of looted gold and to determine the share to be allocated to claimant. Allocations have so far been made to Albania, Austria, Belgium, Czechoslovakia, Italy, Luxembourg and The Netherlands.

5. "The allocations already made having exhausted portion of the pool of monetary gold held at Frankfurt, which was in good delivery form, the decision was made to transfer the remainder to the Bank of England where it could be assayed and, if necessary, remelted . . . transferred to the Bank of England has been stored at the Foreign Exchange Depository Group, was in charge of the shipment as the representative of the United States Military Governor."

CM IN 630 (3 Jul 48) DPO: 0218101 car

RESTRICTED



222283

April 14, 1948

MEMORANDUM FOR THE RECORD

Re: Inquiry From the House of Representatives  
Armed Services Committee.

On April 13 there was referred to me by Mr. Lynch's office a telephone call from Mr. Brown of the staff of the House of Representatives Armed Services Committee. After some preliminary questions Mr. Brown stated that he would be quite frank and tell me that some members of the Committee were concerned about newspaper reports that the gold held by the United States Army at Frankfurt was being shipped to London and New York via Pan American Airlines and they wanted to know why (a) Army transportation was not being used, and (b) surface transportation was not being used instead of air. He said they had directed a written inquiry to Secretary Forrestal on this question and received the reply that arrangements for the shipment were not made by the Army but were made by the Tripartite Commission in Brussels. Mr. Brown asked me first whether the gold had already been shipped.

I told him that to my knowledge the gold had not as yet been shipped, but shipment was scheduled to take place any day now. Thereafter I went into considerable detail in telling him what I knew about arrangements for the shipment of the gold because in my opinion the facts are very convincing and nothing was to be gained by an evasive attitude. I explained that pursuant to the Paris Reparations Agreement of January 1946, representatives of the Governments of France, the United Kingdom and the United States, acting as the Tripartite Commission, were given the task in a fiduciary capacity of securing the restitution of looted gold acquired by the neutral free Germany during the war, covering the same into the gold pool and distributing the gold in the pool to the various Allied Nations from whom gold was looted on a proportional basis in accordance with their losses. After it was determined that the gold would be shipped to London and the United States, I told him, we were requested by the Tripartite Commission to find out whether Army transportation was available, what it would cost and also to get rates on transportation by airline and commercial vessels.

I pointed out to Mr. Brown that in discussions on this subject officials of the Army were reluctant to undertake the transportation of the gold, since it was not for the account of the United States Government, in view of substantial criticism by private steamship lines and some members of Congress of past shipments of this character by the Army. The grounds of the complaints were apparently that the Army was competing on an unfair basis with private transportation facilities. It also appeared from conversations with the Army that most of the vessels which they had available did not have "approved

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Box 62 1ARA - Looted Gold

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By ALT MARAD 6/4/49

Authority NWD 978021

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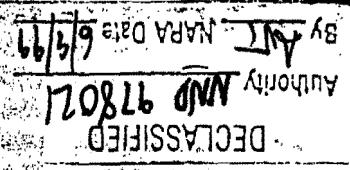
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strong rooms" and therefore the shipments on Army vessels would be subject to very high insurance rates, the rates being 2 1/2 cents per \$100 value on vessels with an approved strong room and 3 1/2 cents per \$100 on vessels without an approved strong room. I told him that we were also informed by the Army that, at the insistence of the Congress, they are having to establish a new formula for determining the charges to be made for shipments of this character which would more nearly approach the actual cost of shipment including overhead, depreciation, and items of this character. The Army was therefore unable to quote a price for the shipment and stated that it would be some period of time before they would be able to quote a price.

I further informed Mr. Brown that in the meantime the New York Federal had obtained rates from a number of airlines and steamship lines and it was found that the airline rates were substantially cheaper than the steamship rates. I told him the lowest airline rate was 44 cents per \$100 value, including insurance, and that three airline rates were lower than the lowest steamship rate obtained. I pointed out that in view of the high insurance on Army vessel transportation it was also apparent that the airline cost would be cheaper than shipment by Army vessel.

I emphasized to Mr. Brown that we were only assisting the Tripartite Commission by obtaining this information which was passed along to the Commission in Brussels, and that it was the Commission which entered into the agreement with the airline. The final contract, I said, might have been at a lower rate than the ones furnished to the Commission in view of the competition among the airlines for the business and the amount of gold shipped.

Mr. Brown asked me why the Army could not ship the gold by plane. I said that this was discussed with the Army and we found that it did not have sufficient planes available to transport the gold in the small amounts required to obtain insurance coverage. Mr. Brown then asked me how the expenses of the Tripartite Commission and of the shipment of the gold were paid and I told him it was my understanding that they were paid out of the gold in the gold pool through the sale of some of the gold to the United States, and the use of the dollar proceeds for the payment of the expenses of the Commission. However, I pointed out to him again that the State Department was administratively in charge of our representatives on the Tripartite Commission and he should get a definite answer from them on this question. He then asked me if any of the expenses of the Commission were paid out of United States Government appropriations and I replied that I did not think so but I would have to refer him to the State Department on this question.

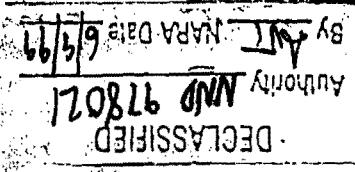


Mr. Brown appeared to be completely satisfied with my explanation of the details of the arrangements for the shipment of the gold and thanked me for my cooperation. I called Mr. Fletcher of the State Department who is in charge of the gold work there, and told him of the conversation. He expressed complete satisfaction with the information which I had given Mr. Brown.

In connection with the foregoing, one fact has always puzzled me. Of the airline rates which we supplied to the Commission the lowest rate was quoted by American Overseas Airlines and Pan American was the third lowest rate quoted. I was, therefore, very much surprised to learn that the contract was awarded to Pan American. It is, of course, possible that in the negotiations in Brussels Pan American was able to meet and better the rates quoted by the other airlines.

cc: Messrs. Lynch, Spingarn, Arnold, Schwartz and McNeill

TBSmith re 4/14/48



January 20, 1948

Memorandum re Shipment by Tripartite Commission of  
Frankfurt Gold to the United States.

The United States Commissioner on the Tripartite Commission requested in a cable No. 10 of January 13 that we obtain a definite answer as to whether the Army can provide transportation for (a) 22 tons of gold and (b) 104 tons. The former figure apparently represents the American share in the preliminary distribution and the latter the remaining gold in the gold pool.

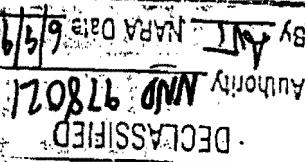
A meeting was held at the Pentagon in the office of Lt. Col. H. E. Gullion. Present were a number of officers representing the Army Transportation Division, the Legal Division, etc. It was announced that they thought there was a good chance that the Army could transport the gold at cost providing a formal request was received from the State Department. It was pointed out that under new regulations the Army now had to figure cost more or less on a commercial basis and that this was the first request of this type to be handled on this new basis. Accordingly, the Army was not prepared to give us an estimate as to what the cost would be. (It was my impression that it might be some time before the Army would be able to provide us with such an estimate.) I pointed out that the cost of shipment of the gold was a very important item to Austria and to the other countries participating in the gold pool since it directly affects the amount of their share in the distribution thereof and I expressed the opinion that the Tripartite Commission would not approve the transportation of the gold by the Army until they had an estimate as to its cost. The Army said that they would commence to work on this matter immediately.

It was pointed out to the Army that inquiries to insurance underwriters had brought responses indicating that insurance could be obtained on a maximum of \$16 million on any one vessel and that this would therefore involve separate shipments on 7, 8, or 9 ships. I also pointed out that according to our information the low insurance rates could be obtained only if the gold were shipped on a vessel of an approved type (4-2 or better) containing an approved strong room.

The Transportation Officer indicated that on the basis of maximum shipments of \$16 million per ship they could probably transport all of the gold to the United States over a period of 90 days by approved type of vessel. However, he doubted whether all of the vessels would have approved strong rooms. He said that their ships would either provide a locked room for each shipment of the gold or be welded into the deep tanks in the hold and said it should ascertain whether such arrangements would meet the requirements of the insurance underwriters.

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He then said that the Army would have to know (1) how many packages there would be; (2) the cubic footage and weight of each package, and (3) the date when all of the gold would be available at Bremerhaven for shipment.

It was indicated that it would be quite a job to ship this gold by 7, 8, or 9 ships and they would much prefer to ship it all on a fast passenger transport and suggested that we might consider the idea of shipping it all in this manner without insurance coverage.

I stated that I did not think this would be at all possible in view of the fact that the United States Government was not the owner of this gold, and I did not feel that this Government or any agency thereof would be willing to take the risk of loss with respect to such gold. I said I felt sure that the Bipartite Commission would never approve the shipment of the gold without insurance.

The meeting at the Pentagon was adjourned on understanding that I would immediately attempt to obtain the information requested by the Army and they would commence work to obtain an estimate as soon as possible concerning the cost of shipping the gold.

Following the meeting I called Mr. Long at the New York Federal Reserve Bank and discussed a number of questions which had been raised. Mr. Long pointed out that the type of accommodation which the Army said they would have for storing the gold on these ships would not meet the insurance company's specifications of approved ~~strong rooms~~. He said that he would send me immediately by mail the insurance company's requirements in this respect, pointing out, however, that an approved strong room must have such features as a combination lock, with the room being an integral part of the vessel, constructed of steel plating of a certain thickness, etc. He said that the basic insurance company rates on an approved vessel with an approved strong room were 20 $\frac{1}{2}$  cents per \$100 value and without an approved strong room 34 $\frac{1}{2}$  cents per \$100 value. Mr. Long then went on to point out to me that from what I had told him of the discussion with the Army it appeared to him that this gold could be shipped cheaper and faster by commercial transportation. He quoted me the following rates which the New York Federal Reserve Bank had received:

1. Southwest and Western Airlines. This company quoted a rate of 11 cents per \$100 value, not including insurance. The New York Federal Reserve Bank is now investigating to make sure that this airline could obtain the normal insurance rates on such shipments which vary between 25 and 30 $\frac{1}{2}$  cents per \$100 value. If this low rate could be obtained and he thinks it can, the over-all cost of shipping by this airline would be between 35 and 37 $\frac{1}{2}$  cents per \$100. This airline, pursuant to license from the C.A.B., is now operating nonstop flights, two a week between New York and Frankfurt, handling cargo to Frankfurt and return for the Army Service Exchange. It has 5 P.O. - 4's.

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2. Pan-American Airlines has quoted an over-all cost of 53 cents per \$100 value.

3. American would handle gold shipments for something slightly less than Pan-American probably around 55 cents per \$100 value.

From the foregoing it can be seen that if the Tripartite Commission, for example, could contract with the Seaboard and Western Airlines for the shipment of this gold at an over-all cost of between 36 and 37 1/2 cents per \$100, this overall cost would be only 6 1/2 cents to 7 cents above the cost of insurance if the gold were to be transported by Army vessel. It seems clear that the insurance plus the Army's cost of transporting the gold would run higher than the over-all cost of shipment by airline.

Moreover, if one considers the length of time required to transport the gold by army vessel as compared with the time for air shipment, the tremendous amount of red tape necessary to arrange for Army transportation and the danger of adverse public comment especially by the commercial air and steamship lines if this gold were to be transported by Army vessel, that there would appear to be no advantage in shipment by Army vessel.

Accordingly, I asked Mr. Lang of the New York Federal Reserve Bank to obtain as soon as possible a definite answer as to the insurance rates on shipment of this gold by the Seaboard and Western Airlines, as well as firm over-all rates for shipment by Pan-American and American. Dr. Fletcher and I have agreed that as soon as this information is obtained we will get off a cable to the Tripartite Commission pointing out the difficulties, delays, and expenses of this gold if transported by Army vessel and advise them of the apparently satisfactory rates quoted by the commercial airlines.

Mr. Lang also gave me figures on the commercial steamship rates for such shipments. These were substantially higher than the airline rates and accordingly are not being considered at the present time.

#### Addendum

The New York Federal Reserve called and advised that the insurance company's definition of an approved strong room is as follows:

"A steel compartment with regular vault or safe type door designed for the carriage of bullion, specie, and valuables which is an integral part of the vessel, said compartment having either combination safe lock or other approved type key lock or locks."

It is clear from this that the facilities provided on Army vessels would not meet the insurance company's requirements. It would therefore appear that shipment by Army vessel could be made only at the higher insurance rate of 34 1/2 cents per \$100.

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INCOMING TELEGRAM

OR

FROM: Brussels  
TO: Secretary of State  
NO: 1099 May 28, 1948 9 p.m.  
ON PW FROM DORR.

1. Arrangements concluded with OMCUS whereby Commission and military governor will jointly ship monetary gold Federal to Bank of England. Contract with Pan American Airways for movement gold coins signed by Commission and Pan American and now in Berlin for signature military governor. Hoped that coin shipments will begin around June 1 to be followed promptly by remaining lots in depository.

2. Arrangement with OMCUS contemplate movement entire amount to Bank of England, Commission to furnish receipt on basis Bank's report weight and fineness of gold delivered. Completion this movement will reduce amount gold under US jurisdiction to about 9,000 kg remaining New York Federal.

3. Two questions still outstanding re shipment:

A. Italian set aside to cover Yugoslav claim under treaty. Commission now considering asking US military governor set aside sufficient gold bring present set aside total 3,805 kg to 8,857 kg in order comply with stipulations of protocol. Question not yet raised in Commission as to what is necessary to meet set aside stipulations of protocol and authorizing letters after movement gold from Frankfurt. Presumably announcement to interested parties plus bookkeeping entry sufficient, but it could be argued that physical segregation required. On this basis possible argue gold could not be sent Bank of England, where all bars lose identity in pool but should be shipped New York Federal for earmark.

B. Italian alloy bars. Stated Department's position (DEPTEL 601, April 23) this issue in Commission without raising any opposition, but French Commissioner now reports that his government considers any silver recovered should compensate gold lost in refining and general Commission expenses.

Believe French would quickly give way if US suggested considered its commitments such would find it difficult authorize delivery bars to Commission in absence agreement return silver. Does not appear amount silver involved sufficient justify controversy unless this statement correct, particularly in view administrative difficulties and expense involved in returning Germany. Would appreciate relevant information.

6-3-48 cc to: Gunter, Arnold, Shwarts, Maloney, Willis, Wood, F. Smith, Scharts, Eddy, Bittermann, Pollack, Hollman, Gewirts and Mint.

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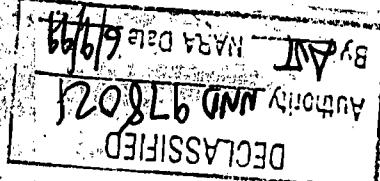
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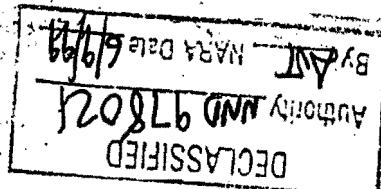


- 2 - #1089, 5/28/48 9 p.m., from Brussels.

4. At present stage consider only possibility divert any portion  
Frankfurt gold New York would be by developing argument SA above.  
Because of past difficulties in making arrangements with GMGUS would be  
length raise issue unless Department considers it of real importance.  
Department will recognize implications re Czechoslovak problem. Believe  
Commission would be most reluctant to deviate from present arrangement  
and would do so only if USA as custodian of gold, undertook move it  
unilaterally. GMGUS would object violently to assuming this responsibility.

5. Please comment soonest.

KIRK



(SECOND DRAFT OF PROPOSED REPORT TO BE  
RENDERED TO IARA OR TO THE INDIVIDUAL  
MEMBER COUNTRIES WHICH HAVE CLAIMS FOR  
THE RESTITUTION OF LOOTED GOLD)

REPORT

RELATING TO NEGOTIATIONS FOR THE RESTITUTION OF LOOTED GOLD

BEGINNING AT LISBON, PORTUGAL IN

SEPTEMBER 1946

BETWEEN DELEGATIONS REPRESENTING THE GOVERNMENTS

OF

THE UNITED KINGDOM OF GREAT BRITAIN & NORTHERN IRELAND

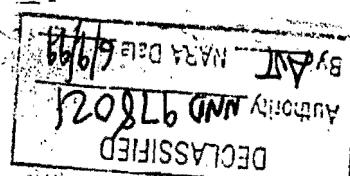
THE UNITED STATES OF AMERICA

THE REPUBLIC OF FRANCE

AND

THE GOVERNMENT OF THE REPUBLIC OF PORTUGAL

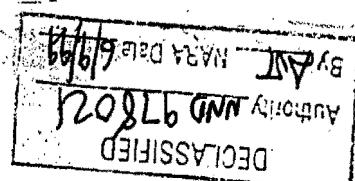
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<b>Section 2.</b> Relating to the Portuguese Delegation's Position Concerning the Fulfillment of the Obligations Assumed by the Government of Portugal by Adherence to Resolution VI of the Bretton Woods Conference and to the United Nations Gold Declaration of February 22, 1944, that any Attempt to Recover Looted Gold from Portugal Must be Based on Portuguese Law and Adjudicated in Portuguese Courts		<b>Page 9</b>
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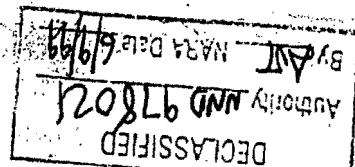
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The purpose of this report is to make available to the interested Allied Governments, and to such Inter-Allied Commissions as may also be convened, a factual record of the negotiations between the Allied Governments and the Government of Portugal, regarding gold in Portuguese possession which is alleged to have been looted by Germany from other European countries. The report is based upon the documentary and oral argumentation presented by the Delegations of both parties in the course of numerous meetings which took place at Lisbon from September, 1946 to July, 1948.

Forming an integral part of the report is an Appendix containing in chronological sequence texts (or English translations if the originals were submitted in any other language) of all pertinent documents such as Memoranda, Letters, Sub-Committee Findings, and Official Notes, exchanged between the Delegations as well as between their respective Governments. The report is based upon this documentation and upon the minutes in which were recorded the oral arguments presented at each meeting of the Delegations.

Thus constituted, the report is intended to record the irreconcilable viewpoints developed during the negotiations in a manner to assist the appropriate authorities in determining what further course of action to follow.



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REPORT RELATING TO THE NEGOTIATIONS FOR THE RESTITUTION OF LOOTED GOLD  
BEGINNING AT LISBON, PORTUGAL - SEPTEMBER 1946 - BETWEEN DELEGATIONS  
REPRESENTING THE GOVERNMENTS OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND, THE UNITED STATES OF AMERICA, THE REPUBLIC OF FRANCE  
AND THE GOVERNMENT OF THE REPUBLIC OF PORTUGAL.

Introductory

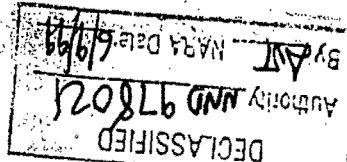
In 1946 the Allied Governments represented by the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Republic of France concluded agreements with the governments of Switzerland and Sweden concerning the disposition of German assets existing in those countries and concerning related post-war problems. Included in these agreements were settlements for the restitution of gold looted by Germany and acquired by Switzerland and Sweden. On May 10, 1946 an agreement was reached between the Allied Governments and the Government of Spain on German assets in Spain and for the restitution of all gold looted by Germany and acquired by Spain. An agreement was made on May 13, 1946 with the Bank for International Settlements for restitution of gold looted by Germany and inadvertently acquired by the B.I.S.

The Allies expressed to the Government of the Republic of Portugal through the usual diplomatic channels their desire to negotiate a corresponding agreement with Portugal. The Portuguese Government agreed to participate in such discussions and the Delegates, named by their respective Governments, convened in Lisbon on September 3, 1946.

During the subsequent proceedings, the Allied Delegations introduced the topic of looted gold as an item for the agenda by presenting to the Portuguese Delegation a Memorandum (Exhibit I) asserting that the Portuguese Government by adherence to Resolution VI of the International Monetary Conference held at Bretton Woods and to the United Nations Gold Declaration of February 22, 1944, had affirmed its intention to return to the rightful owners property looted by the Germans. The Allies in this Memorandum stated that they wished to assist the formerly occupied countries to regain the gold reserves forcibly taken from them and thus on behalf of all such countries, would like to examine the problem with the Government of Portugal. They hoped with Portuguese cooperation to find a satisfactory solution such as had been negotiated with Switzerland and Sweden for the restitution of looted gold acquired during the war.

The views subsequently exchanged on this international problem are set forth in the documents recorded in the Appendix to this report. A detailed review of the voluminous data presented therein is unnecessary to a fundamental consideration of the problem and to the decision necessary for its solution. In fact, the position of the Allied Governments is a matter of international record. This position was recognized by the Governments of Switzerland, Sweden and Spain by their restitution of gold looted by Germany and subsequently acquired by them. The moral responsibility to restitute looted gold without compensation was recognized, in addition to settlement on external German assets by these countries as well as the 16 governments which adhered to the Final Act of the 1945 Paris Conference on Reparation. On the other hand, the Government of Portugal, motivated by several basic principles, as well as by circumstances it deems peculiar to its situation, has rested its case without offering any reasonable basis for settlement to the Allies.

It is under these circumstances that this report will serve to summarize and comment on the Portuguese point of view and the failure to reach an accord, or any agreement on the basic issues involved. The succeeding chapters will outline those fundamental points upon which Portugal bases its position, namely: 1) that the Allies have not correctly assessed the purpose of and result of the efforts of the Sub-Committee on Gold; 2) that Portugal has effectively fulfilled the obligations it assumed by adhering to Resolution VI of Bretton Woods and the United Nations Gold Declarations that any attempt to recover looted gold from Portugal must be based on Portuguese law and adjudicated in Portuguese courts; 3) that the activities of



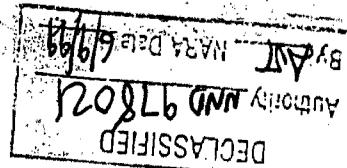
Portugal which resulted in the acquisition of looted gold from Germany do not fall within the scope of Allied warnings concerning acts of looting practiced by the Germans; 4) that any looted gold in possession of the Bank of Portugal was acquired in good faith. A separate section (5) is devoted to the substance of a proposal by the Government of Portugal and the most recent exchange of notes.

The Portuguese Delegation from the very beginning of the discussions has relied upon two basic themes of argumentation, both of which have been maintained and are not acceptable to the Allied Governments. First, Portugal does not acknowledge that the Bank of Portugal acquired looted gold and, on this premise, refuses to reach a settlement. Second, even if Portugal were willing to set aside the question of whether the gold acquired was looted in view of the Allied evidence presented, she would continue to claim "purchase in good faith" as a justification for insisting upon reimbursement for any restitution of such gold. These two themes have continued to appear in various forms; to have agreed to Portugal's position in either case would be contrary to all the facts available, and would preclude any satisfactory agreement. On the other hand, Portugal's refusal to recognize any requirements and facts contrary to her position has resulted in the necessity for the three Allied Governments to prepare this report.

It was not until the Portuguese note of August 12, 1949 that any reference was made formally to the difficult economic situation of Portugal, and therefore, its inability to make restitution for the looted gold which it had acquired. However, this problem was raised from time to time in discussions by the Portuguese delegation and apparently is basic to the Portuguese position. It was pointed out by the Allied delegations at various times that Portugal's economic position during and immediately after the war was far superior to that of those countries which had suffered occupation and devastation as well as the loss of substantial portions of their monetary reserves including gold which was looted. The suffering of those countries which fought the war hardly need be compared with that of the neutral governments, including Portugal, whose borders were untouched by the aggressor nations and who suffered no property damage or loss of lives as a result of the war. It may be of interest to note that Portugal's gold holdings in 1938 appears to have been equivalent to approximately 85 million dollars and in 1945 were over 420 million dollars. The current deficit of the Portuguese balance of payments however has been taken into account by the Allied offer to settle for one third of the looted gold acquired by Portugal.

The negotiating Allied Governments have suffered in varying degrees from the expenditure in lives and property during the war against an aggressor and have since the end of the war contributed substantially toward the reconstruction and rehabilitation of other nations. Two of the negotiating Allied Governments acting on behalf of others have expended their own resources in attempting to obtain the restitution of looted gold while not participating in the distribution of recovered gold.

In summary it is pointed out that the Allied Governments established, bar by bar, beyond reasonable doubt that Portugal acquired 30.45 tons, fine weight of gold looted by Germany. Portugal has refused to accept any responsibility for restitution and offered at the most to return 3.9 tons of gold in return for full compensation thereof from the proceeds of German assets liquidated in Portugal.



SECTION I.

SUB-COMMITTEE FOR GOLD

One essential element of a formal request to a government for the substitution of looted gold, or for an acceptable settlement in lieu thereof, is a precise knowledge of the quantity of looted gold that government is known to have received. This determination in the case of Portugal was the basic purpose of the Allied Delegations in moving to establish the Sub-Committee for Gold. To facilitate evaluation of the results obtained by the efforts of the Sub-Committee, this section is subdivided to describe (a) the competence of the Sub-Committee, (b) the method by which the facts were assembled by the Sub-Committee, and (c) the concrete evidence contained in the Sub-Committee's Report.

(a) Summary of the Portuguese Delegation's position regarding the formation, purpose and functions of a suggested Sub-Committee.

The following summary of passages in a September 27, 1946 memorandum of the Portuguese Delegation states the Portuguese point of view on the desirability, or necessity, for the creation of a Sub-Committee to undertake the task of ascertaining whether, and to what extent, the Bank of Portugal had acquired gold that might be regarded by Allied Delegations as looted:

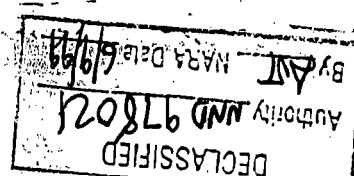
"In accordance with the request of the Allied Delegations, the Portuguese Government is disposed to agree to the formation of a special committee for the classification of the facts. The special committee will be able, by ascertaining the exact numbers, names and other identifying symbols of the bars claimed by the accused countries as well as the facts on which these countries base their allegation of looting, to satisfy themselves (1) that such bars are in the possession of the Bank of Portugal and (2) how they were acquired. The results of the work of the special committee will not, however, have the effect of the necessary judicial decision, in that the State cannot substitute itself in ascertaining the rights of private entities (such as the Bank of Portugal) nor act in judgment with authority with respect to questions brought forth or elements of proof accepted by the Bank." (Exhibit II, page 7).

"Observing that the Allied Delegations declare that they do not renounce their position taken in their Memorandum of November 9th, and that they reserve the right to make appropriate counter accusations, the Portuguese Government, the Portuguese Delegation judges that, under such conditions, the work of the sub-committee could not produce practical results. In fact, until the principles are determined in the light of which the factual material is to be evaluated, it could not be expected that such a committee would contribute to the clarification of the problems in question. Nevertheless the Portuguese Delegation agrees that the sub-committee can soon meet in order to ascertain, by bringing together information available to both sides, whether all or any of the bars of concern to the Allied Delegations are in the possession of the Bank of Portugal. Such acceptance does not imply, however, renunciation of the principles which the Portuguese Delegation still maintains in their entirety." (Exhibit IV, page 1).

(b) Method of procedure for the comparison of the data available to the representatives of both sides. ✓

The first meeting of the Sub-Committee was held on October 1, 1946. In discussion of the various methods which might be adopted to compare the work of hand, it was determined that the instructions to the Portuguese representatives included a simple exchange of the data available

✓ This entire subsection is based on a review of the minutes of the meetings.



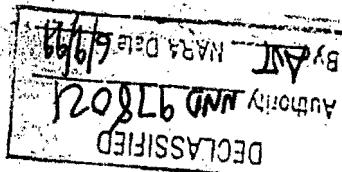
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to both sides. The Allied representatives were particularly desirous of the arrangement that would place at their disposal the complete list of the bars of gold the Bank of Portugal had acquired from Germany and at the same time would make available to the Portuguese representatives the records of the Russian State Mint containing the details of the bars produced from remelted looted gold. The purpose of this was to accomplish within two days' time that otherwise would require months, because it was stated that the official duties of the Portuguese representatives, as well as their functions as Delegates to the discussions concurrently in progress relating to the disposition of German assets in Portugal, would permit them to devote only a few hours each week to the work of the Sub-Committee. However, the Portuguese representatives maintained that they could not divulge the records of the Bank of Portugal, and moreover, the instructions contained in the Portuguese Delegation's Memoranda of September 24, 1946 and September 27, 1946 (Exhibits II and IV) stipulated that since the purpose of the Sub-Committee was to prepare a report based upon a comparison between (1) the data in the possession of the Allied representatives and (2) the facts relating to certain bars of gold that might have been acquired by the Bank of Portugal directly, or indirectly from the Reichsbank, it was for the Allied representatives to state the exact markings, numbers and other identifying symbols of the bars of concern to them.

Finally the procedure established was as follows: The Allied representatives would state the number of a Series and that they possessed detailed information concerning specific bars of gold in that Series. The Portuguese representatives, after conducting a search through the records of the Bank of Portugal would then state whether any bars bearing that Series number had been received by the bank from Germany. Once it was determined that any particular bars of a Series number so treated had been acquired by Portugal, all the identifying characteristics of such bars were usually exchanged and the results of the comparison thus effected were recorded by the representatives, with an indication whether the characteristics coincided wholly or varied in any respect.

The identifying characteristics of a single bar of gold consist of the year of issue, series number, individual number within the series, fineness and gross weight. All bars emerging from one smelting operation, each operation constituting a series, are stamped with the same year of issue, the same series number, and obviously the same percentage of pure gold. The fine weight attributed to a bar of gold is a mathematical reduction of the gross weight by the percentage of pure gold guaranteed by the Mint or Assayer to be present in the bar. Usually a numbered assay paper certifies accompanied each bar, but the Prussian State Mint did not issue such certificates. For its internal use and record the Reichsbank assigned a number to the bars as they were delivered by the Mint. This number was registered on a paper referred to as a "Bulletin Slip" and the number consequently is known as the "Bulletin Number" or simply as a "Bank Number". The bulletin number serves only to refer to the records of the Reichsbank giving the description and disposition of the bar of gold in question. However, as gold ingots are usually accompanied by an assay certificate or document of some kind, the paper bulletin slips accompanying the bars received from the Reichsbank by the Bank of Portugal were retained and carefully preserved.

The Portuguese representatives attributed great importance to a situation which arose at some of the early meetings, when it appeared in comparing various series of lists that the bulletin numbers of several groups held by the Bank did not coincide with the numbers given for these lists in the records in possession of the Allied representatives. It was evident that the bulletin slips had been interchanged among the lists in the different groups. Nevertheless, the Portuguese representatives held to their point, namely, that the number constitutes an identifying characteristic, consequently that the non-identifiability encountered in the comparison of that characteristic should be regarded. As the work of the Sub-Committee progressed it was ascertained that the Bank did not have the bulletin numbers of nearly 25 percent of the total number of lists received from the Reichsbank and the Allied representatives took the occasion to have that fact recorded.



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The data in the possession of the Allied representatives included (1) the specific reports of the Prussian State Mint giving details of its operations in remelting looted gold and the full description of the bars resulting from such operations; (2) memoranda taken from the Reichsbank books regarding the deliveries to the Mint of quantities of gold to be remelted and the source of the gold including facts specifically showing the looted origin; and (3) a complete and detailed statement of the identifying symbols on bars of gold forcibly removed from the occupied countries. (4) mutually supporting documents from Germany and other sources. It seemed self-evident to the Allies that the mere confirmation through this procedure of the acquisition by the Bank of Portugal of any bar of gold which could be positively identified from the documentary files available to the Allied representatives, was, in itself, sufficient to establish the claim subject to later judicial proof if necessary that that bar had been looted or had been produced from gold that had been looted. However, in the discharge of its mandate from the Delegations the Sub-Committee was restricted to the simple observation that a bar of gold of concern to the Allied Delegations had been acquired by the Bank of Portugal, and that the identifying data had been compared in order to determine whether all, or some, of the characteristics that could serve to distinguish that bar from any other bar conformed with the available information. The Portuguese Government asserts that this limited mandate of the Sub-Committee makes the result of its labors of so value as evidence in support of a claim pertaining looted gold. The Allied Representatives maintained that the terms of reference of the Sub-Committee could not destroy the facts of identification established by the Sub-Committee.

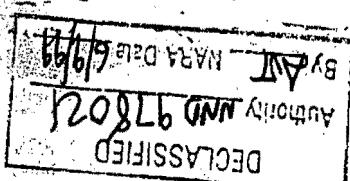
(c) Analysis of the Report submitted to the Delegations by the Sub-Committee for Gold.

After months of detailed labor, the Sub-Committee completed the analysis, presenting a voluminous report containing 167 pages of comparative data, 4 Exhibits, and 16 Subsidiaries or recapitulations. A copy of the report was transmitted to the chief of each of the participating delegations on March 21, 1947 (Exhibit IV). The summary of the report showing the result has been included in the Appendix (Exhibit V) as being the only portion that needs to be considered for the purpose of this analysis.

A matter of interest to which the report makes no reference is that all of the gold acquired by the Bank of Portugal from Germany during the period under review was received through the intermediary of the Swiss National Bank, acting as distributor for the Reichsbank. The Portuguese Memorandum of September 21, 1946, contains a statement to this effect, (Exhibit III, page 1) and confirmation that it applied to all the gold received and usually given by the Portuguese representatives in the course of the mission.

Making allowance for one lot of 172 bars of gold repaid to the Reichsbank and subsequently recovered from it, the total acquisition of gold from Germany by the Bank of Portugal during the period January 1, 1939 to October 21, 1945 is shown to be 2899 bars having a gross weight of 49.35 tons and a fine weight of 46.76 tons (Exhibit V). The distinguishing characteristics of these 2899 bars were compared with the data in possession of both sides, and the following summary indicates the results obtained:

1. Agreement on all comparable characteristics	2246 bars
2. Agreement on comparable characteristics with exception of "bulletin slips"	2352
3. Agreement on comparable characteristics with exception of verification of assay marks, which information was not available to Allied Representatives	234
4. Agreement on comparable characteristics with exception of verification of assay marks, and a comparison on features	234
Comparable to comparison	233 bars
Not comparable to comparison	1 bar
Total bars required	234 bars



222299

As has been stated, the report of the Sub-Committee for Gold was submitted to the Chiefs of the Delegations on March 11, 1947 (Exhibit VI). Following the exchange of several notes in which the Allied Governments suggested that further discussions be held at Washington for the purpose of reaching a solution on the basic problems of the restitution of looted Gold, the Portuguese Government agreed to a resumption of the negotiations if they be held at Lisbon (Exhibits VII, VIII, IX). The Delegations convened on November 14, 1947 to consider what factual evidence had been obtained from the banks or the bankers of the Sub-Committee and, if possible, to endeavor to reach an agreement using these facts as a basis for discussion.

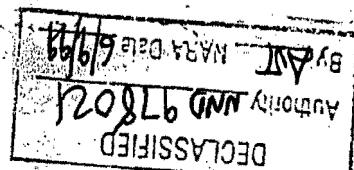
At this first plenary session, the Allied Delegations presented additional information in the form of minute descriptions of the assay tests claimed by the Portuguese representatives to be stamped upon the bars included in categories 3 and 4 in the summary of results given above. The Portuguese Delegation affirmed that the data presented was conclusive. Consequently the 152 bars, which at the time of the preparation of the Sub-Committee report were considered as lacking in one element of composition, could now pass into category 1 to denote agreement on all comparable characteristics. This additional information had been acquired in the interval from Germany.

The Ballotin Ships which had evoked considerable discussion in the Sub-Committee meetings were the next topic brought to the attention of the Delegations. It was pointed out by the Allied Delegations that of 1552 bars segregated in a special classification because no composition could be made of the bars indicated on the ballotin slips, this fault in 694 cases was entirely due to the fact that the Portuguese representatives were not in possession of the ballotin slips, and not because the Allied representatives could not supply information concerning the number shown on the slips. Of the remaining 152 bars included in this category, it was stated to be quite apparent from the transportation of the numbers that the ballotin slips had become separated from the bars and had been inadvertently assigned to different bars. Further, it was stated that even though certain ballotin slips may be regarded as an added element for composition, the principal factors of identification are those imprinted in the bars, such as the bar number, year of issue, fineness and weight, agreed in every respect and the transportation of certain slips could not be considered as relevant to the composition. The Portuguese Delegation admitted the logic of this argument and recognized the Allied Delegations' contention that the bars under discussion, 152 bars designated as category 2, should be included in category 1.

With all of the four sub-series thereby consolidated in one representing complete agreement on all comparable characteristics, it is correct to state that the Sub-Committee for Gold, in accordance with the terms of the mandate from the Delegations, had determined that the Bank of Portugal acquired from Germany during the period January 1, 1939 to October 11, 1944, 1559 bars of gold having a gross weight of 46.48 tons and a fine total weight of 46.76 tons; and "by bringing together information available to both sides" had effectively ascertained that 2165 bars, with a gross weight of 46.53 tons and a total fine weight of 46.76 tons, were "of concern to the Allied Delegations and were in the possession of the Bank of Portugal".

Exhibit D of the report submitted by the Sub-Committee for Gold (Appendix - Exhibit V) divides into seven groups the gold bars acquired by the Bank of Portugal from the Reichsbank. Because it was not within the competence of the Sub-Committee to establish the origin of the gold revealed by the report to be "of concern to the Allied Delegations", there is no mention in the exhibit of the source of the segregation. The purpose was, however, to consolidate into separate groups all of the bars originating from the same known source.

Group 1 represents bars produced from gold re-melted for the Deutsche Reichsbank by the Preussische Staats Münze, which, as revealed by following the movement of the gold in the records of the Reichsbank and of the Mint, is indistinguishably identified as gold legitimately coined by the Bank of Berlin which was an deposit in the State of Prussia at the time of looting. These original records are not available in the background material assembled by the Allied Governments.



222300

Group 2 represents bars produced from re-melted gold coins. By similar process of identification there were unquestionably the coins which were forcibly removed from the Nederlandse Bank, N.V. Amsterdam. For this group also, unquestionable documentary evidence was presented by the Allied representatives to the Portuguese and is available for public review. Even copies of the Dutch lists which comprised the shipments, the Rotterdam Reichsbank receipts and the railway bills of lading for these shipments are available. In addition, the records of the administration of the gold within the Netherlands support the Allied claims.

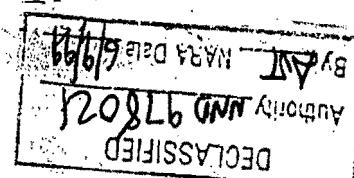
The bars of gold included in Group 3 were not re-melted after having been looted and are the identical bars removed from the Nederlandse Bank N.V.

Groups 4, 5, and 6 represent bars produced by re-melting miscellaneous bars, American and German gold coins, etc., the origin of which are doubtful. These bars may represent monetary gold legitimately acquired and owned by the Reich.

Group 7 includes bars which were not identified from any data in possession of the Allied representatives and therefore may be regarded as German owned or legitimately acquired gold.

Subject to a substantiation of the observations made above concerning each group, the report of the Ad-Hoc Committee for Gold may therefore be interpreted as follows:

Identification	Country	Number of Bars	Gross Weight Grams	Pure Weight Grams
Group 1	Portugal (bars)	1656	20.02	20.40
2	Netherlands (coins)	1160	15.61	14.97
3	Netherlands (bars)	21	4.02	4.02
	of looted origins	216	10.49	10.49
Group 4	Unknown	17	.21	.21
5	"	15	.39	.39
6	"	430	2.43	2.21
7	Unquestionably Not located	212	2.24	2.23
	Total acquisition	3899	49.35	46.76



SECTION 2

RELATING TO

STATEMENT OF THE PORTUGUESE DELEGATION'S POSITION CONCERNING THE IMPLEMENTATION OF THE DECLARATION ASSUMED BY THE GOVERNMENT OF PORTUGAL IN ACCORDANCE WITH RESOLUTION VI OF THE BRETON WOODS CONFERENCE AND TO THE UNITED NATIONS GOLD DECLARATION OF FEBRUARY 22, 1944, THAT ANY ATTEMPT TO RECOVER LOOTED GOLD FROM PORTUGAL MUST BE BASED ON PORTUGUESE LAW AND ADJUDICATED IN PORTUGUESE COURTS.

On this subject the Portuguese position is:

An adequate solution to the problem of property looted by the Germans in occupied countries is given in Portuguese Decree-Law No. 24,455 of March 22, 1945, by the promulgation of which, the Portuguese Government formally adhered to Resolution VI of Bretton Woods and to the Declaration on Gold and that this law adequately covers these responsibilities. This Decree-Law stipulated that:

- a) legal transactions concerning objects brought into the country and which are subsequently proved to have been looted by acts of military occupation and confiscated from those who are considered the legitimate owners, shall be declared invalid.
- b) holders in good faith will be protected by existing Portuguese law as provided for in the Civil Code.
- c) disputes over possession, with the understanding that the objects are invariably in possession of the apparent proprietor, will be adjudicated before the Portuguese courts and by means admitted in Portuguese legal procedure. Consular agents in occupied countries are qualified to represent the interest of the legitimate owners to initiate actions at law or otherwise.

Decree-Law No. 24,650 (promulgated May 14, 1945), in the preamble to which the Portuguese State declared its adherence to the principles established in Resolution VI and in the Gold Declaration, contains a provision for the effective blocking of the property defined in Decree-Law No. 24,455.

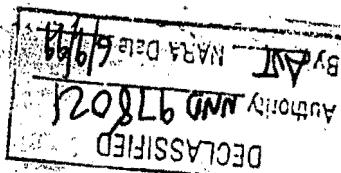
The Portuguese conclusion therefore is:

These laws provide a legal means to discover looted gold and effect its restitution to the legitimate owners. However, none of the interested countries has taken advantage of the legal process thus provided to ask the Portuguese tribunals to define their property rights with respect to the disputed gold, and to order its return. (Exhibit II).

In the opinion of the Allied Delegations, the facilities afforded to the legitimate owners of dispossessed property by that law, regardless whether the act of looting was perpetrated by military occupation or any other name, must have existed in the Portuguese Civil Code since the days of its inception since they are implicit in the Portuguese legal trust set forth in Section 4. The Allied Delegations have not felt that this particular law was designed to give effect to a recognized situation with which the Portuguese Government was in full sympathy. They have stated that the very date of the issuance of this law and the ambiguity of its text, indicate that it could have been applicable to any armed forces regardless of the fortunes of war.

In addition, the Allied Governments have stated that aside from any consideration as to the applicability of Portuguese law to a domestic question of the acquisition of stolen property, any disagreement with respect to the fulfillment of an international obligation such as the Bretton Woods Agreement, and involving a number of governments, should not be litigated before a domestic forum, nor on the basis of domestic law and practice, particularly in one of the countries which is a party to the litigation. Furthermore, the return of property to its rightful owner upon payment of its equivalent value as compensation to the holder is not restitution but a sale. The suggestion that a government or central bank which may have been looted of its gold stock should spend gold or equivalent assets to repurchase its own gold is untenable.

The legal position taken by Portugal is presented in Exhibits II and III and the Allied response is presented in Exhibits I, IV and V.



RELATING TO

ARTICLE XIV THE PORTUGUESE GOVERNMENT'S INTERPRETATION  
OF THE ALLIED NATIONS DECLARATION IN JANUARY 1943  
WITH RESPECT TO ACTS OF PLUNDER IN OCCUPIED COUNTRIES  
BY THE GERMAN ARMY AND THE UNITED STATES GOLD  
DECLARATION OF FEBRUARY 22, 1944.

The Portuguese made the following observations under this heading:

Portugal's foreign trade operations during the war were completely legitimate since it was a neutral country. The most important and valuable of its exports to Germany were sent with the full knowledge of the Allied Nations which must, therefore, have known that these operations would have to be liquidated, particularly through the importation and acquisition of some quantities of gold.

Neither the Allied warning of January 1943 with respect to assets seized by Germany nor the publication of the Gold Declaration of February 1944, alter the situation in any manner. The warning, for example, referred in a general sense to movable property, without mentioning gold, and cannot be considered as relating to gold subject to regular transactions between banks or firms for the liquidation of their operations.

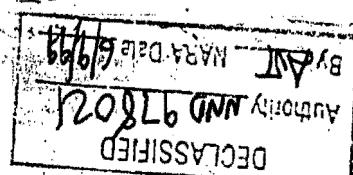
On the other hand, the Gold Declaration by its own terms professes to be a new document and amputating both in context and form the warning of 1943. The fundamental differences between the two documents are apparent. Not only does the 1944 declaration, contrary to that of 1943, make a special reference to gold — which implies that the transactions between central banks were not considered as covered in the 1943 warning — but it also, for the first time, institutes the adoption of measures for the purpose of suspending in the future all transactions, direct or indirect, with Germany were contemplated. This clearly indicates that only in 1944 was it decided to adopt the radical measure of halting about a complete suspension of gold transactions with Germany. Such a measure, as is evident in the text, hardly applies to operations prior to the date of the declaration since the declaration states that "it will be the policy of the United States Treasury Department....."

The Portuguese conclusion therefore is:

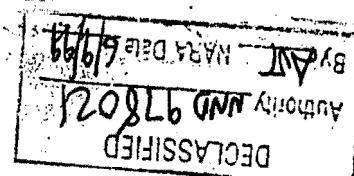
The Gold Declaration can only be considered as international law binding Portugal from the date of its adherence which was given in May 1945. The Portuguese Government thus holds that all the operations carried on by the Bank of Portugal with the Reichsbank with respect to gold acquired during the war were entirely legitimate. (Report II, page 4/3).

← The Allied Governments, on the other hand, while recognizing the trade of Portugal with Germany during the war as legitimate pointed out that recognition and knowledge could not absolve the Portuguese from the necessity of insuring that whatever payments were made in return were in valid form.

The Declaration of January 9, 1943 and the Gold Declaration of February 22, 1944, stated publicly a situation widely known to exist. It is the contention of the Allied Governments that had such statement not been made, the moral and legal obligations of restitute or restore of stolen property to resettle it to the lawful owner would remain. However, even when not specifically mentioned in the January 9, 1943 Declaration, gold was treated, at about all times, like itself to international trade transactions. It does not appear that the Declaration excluded gold when it's language is as follows: "accordingly, the governments making this Declaration and the French National Committee request all their subjects to desist from all acts of, or dealings with, Germany, Italy, and interests of any description whatsoever which are, or have been situated in the territories which have come under the occupation or control, direct or indirect, of the governments with which they are at war or which before we have belonged, to German, Italian, judicial persons, residing in such territories." It is equally unclear whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected. (Exhibits I, IV and V).



However the declaration on gold and other property may be interpreted, the principle that a purchaser cannot make a valid record with property to which he does not have clear title must remain, as must the right that the seller should exercise due caution when reason for apprehension exists.



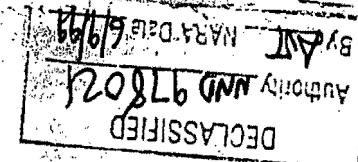
**RELEVANT TO THE PORTUGUESE CONTENTION THAT  
THE LOANED GOLD POSSESSED BY THE BANK OF  
PORTUGAL WAS ACQUIRED IN GOOD FAITH**

A short time at this was consumed in oral and written examination between the Portuguese on the contentious subject of "acquisition in good faith". The Portuguese, at time stated that this was the core of their position and in addition to the treatise of November 25, 1947 which deals exclusively with the subject (Exhibit IV), one reference to it, directly or by inference, may be found in almost every document submitted by the Portuguese Delegation or Government. In brief, the Portuguese contention, founded on Portuguese law, is as follows:

A holder in good faith of property proved to have been stolen can be obligated by legal process to restore such property to the rightful owner, but only on the prior condition that he be reimbursed for its purchase value.

The Portuguese state that the only valid way of opposing their defense, based as it is upon a plan of good faith, is to prove bad faith. If this conclusion were to be accepted, the Portuguese indicated at various times that it would be necessary for the Allied Delegations to prove that the Bank of Portugal was an accomplice to the acts of pillage practiced by Germany by serving, briefly, as a receiver for stolen goods.

While not raising the question of good faith, the Allied Governments submit that this question has no relevance for criminal责任. First, the Treatises of January 5, 1943 and February 22, 1944 (Exhibits 171 and 172) were referred to the Portuguese in addition to the known activity of pillage and loot in which the Germans were engaged. Second, the question of good faith does not enter in any form in Article Seven Law. In the Code Napoleon, the French Civil Code, from which the Portuguese law is derived, the question of good faith enters only when purchase is made, "at a fair or market, at a public sale, or from a merchant selling similar articles...". In other instances, the original owner may reclaim it by returning the holder for the price it cost him. The Portuguese law, it has been contended by the Allies to not appropriate to decide international questions between governments particularly when one of the governments principally concerned is Portugal. However, and finally, even if the Portuguese law and the question of good faith were to be considered, it is not relevant to the acquisition by Portugal of loaned gold, since this acquisition did not take place in open market. Rather the Bank of Portugal per the Portuguese can be considered an "interested owner". (Exhibit 2).



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EXHIBIT 5

LAW ALLIED SETTLEMENT OFFICE, PORTUGAL  
PROPOSAL OF JULY 8, 1948 AND SUBSEQUENT NOTES

Identical Allied notes of May 14, 1948 to the Government of Portugal (Exhibit IV) suggested a possible means of solving quickly the long pending problem of looted gold, and informed that the local Allied missions could be willing to recommend that the sixteen interested Allied nations (IMAA group) accept an offer from the Portuguese to restore a quantity of gold equivalent to no less than one-third of the total quantity of looted gold acquired by Portugal.

The Portuguese reply of July 8, 1948, contained the Portuguese counter proposal (Exhibit IV) which is in substance, as follows:

On the grounds that only gold received by the Bank of Portugal in the case form in which it had been looted can be accurately termed looted gold, the Portuguese Government states that it could never consider as a basis for negotiating the total quantity of 53,931 kilos of gold ~~recovered~~ → *Allied governments* *tyrants have been* *looted by the* ~~recovered~~ by Portugal from Germany which is alleged by the Germans in occupied countries.

If Portugal granted credits to Germany in place of demanding settlement in merchandise or gold, the balance in favor of Portugal in the "clearinghouse account" would have been increased by the amount of such credits. That balance would then have to be recognized as a valid claim to be satisfied out of the proceeds of the sale of German assets in Portugal by virtue of the same considerations as determined that the presently existing "clearing" balance is valid. The Allied thesis that Portugal should repatriate looted gold without the benefit of a corresponding compensation for its value, therefore, appears an extraordinary and absurd aspect.

By the regularization of Decree-Law No. 24,455 of March 22, 1948 and No. 34,450 of May 14, 1948, Portugal has done all that is necessary to grant facilities for the identification and restitution of looted property. The Portuguese Government would thus confine itself to passing on to the competent courts the debts raised with respect to the gold received from Germany by the Bank of Portugal.

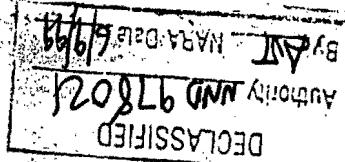
Portugal accepts, however, the principle of an accord intended to resolve the questions still outstanding, based upon the following points:

- 1) that the obligation of restoration applies only to the gold which was received by the Bank of Portugal in the case form in which it had been looted;
- 2) that the Bank of Portugal, as a holder in good faith — or the State on its behalf — shall have the right to receive the value of the gold to be delivered.

With respect to such gold, the rights of ~~any~~ <sup>any</sup> subsequent holder and of retention pending reimbursement are waived, provided that, in the liquidation of the German assets in Portugal, the Portuguese Government will be assured of the reimbursement of that value.

On the assumption resulting from the affirmations made by the Allied Governments that this gold was looted, the Portuguese Government would be disposed to ensure the restitution of those 320 bars having a fine weight of 3,930 kilos, provided that the Portuguese Government is guaranteed the recovery of the respective value out of the liquidation of the German assets in Portugal.

1.0000 metric tons



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The Portuguese note recognized that their offer was the same of the suggestion already made in vain by them to the Allied Delegation.

The note expresses hope that the Allied Nations will recognize the validity of Portugal's position in establishing the registration of the quantity of gold specified above as a limit of her exactions, and in insisting upon indemnification for the proceeds of the liquidation of German assets in Portugal.

To that end, the note suggests that the Agent already negotiated on the technical level for the liquidation of certain German assets could have to be revised, relating to 150,000 euros the amount referred to in subparagraph (b) of paragraph 1 of Article V, and to 10 percent and until complete liquidation of her credits — in which the result of the contribution of the gold will be included — the percentage that is due to Portugal, according to subparagraph (a) of the same paragraph and Article. (Exhibit XX)(1).

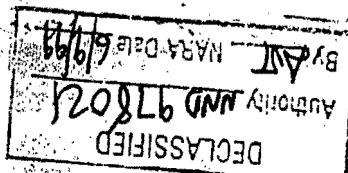
An Allied note was presented on February 2, 1949 by the British Ambassador to the Portuguese. This note (Exhibit XIII) again answered the questions raised in the Portuguese note July 8, 1948 and concluded by advising that the Allied Powers considered the offer of the Portuguese Government to deliver 3.9 tons of gold conditioned upon full reimbursement as entirely inadequate. It advised that if a more favorable offer were not presently forthcoming a report will be delivered to the interested governments and it might be followed by direct presentation by the Government of their claim against Portugal.

Although the Portuguese note of July 8, 1948 was a reiteration of all that had already been said, the Allied note answered each point.

1. The Allies and not the Sub-delegates on gold claimed that of the 43.97 tons of fine gold turned to Portugal, 31.4 tons had been proved by law and further by number to have originated in gold pillaged by Germany. This proof of identity of the gold as looted by Germany and captured by Portugal had never been denied by Portugal. That had been denied was previous warping, examination in bad faith or responsibility for any liquidation. At the sessions on November 12 and 13, 1947, the Allied Delegation presented a verbal detailed explanation of the documents by which the fact of looting and the tracing of the gold was proven. The Chief of the Portuguese Delegation refused to state that the gold was looted, or that it was not looted, but that the meeting might proceed to consideration of a basis for settlement without further consideration of the fact of looting.

2. Portugal had been on notice with respect to accepting gold from Germany. Looting of gold by Germany was of course common knowledge and the Allied Declaration of January 1945 could not be considered as excluding gold when the terms were so broad as, "pro rata of any demobilization whatsoever" and when the explanatory memorandum annexed to it stated "the wording of the declaration clearly covers all forms of looting to which the enemy has resorted". The statement issued by the British Government with the Declaration specifically mentioned billion. The Gold Declaration of February 22, 1946 did not in any way limit the earlier Declaration of 1945 but delimited one aspect of it.

3. The question of the Belgian gold which, while in the custody of the Bank of France, had been looted by Germany, was already established to have been so looted, despite the cloak of immunity with which the Germans attempted to cover their operations. At a plenary session on November 13, 1947 factual evidence was presented and documents which established the acts of pressure and fraud exercised by Germany in covering the delivery of the Belgian gold. Neither the Belgian National Bank nor the Bank of France ever recognized this transfer to Germany except as loot. The French restitution to Belgium of this looted



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gold was a clear recognition of its responsibility, and evidence that the gold was looted while under French occupation.

4. The Allies rejected consideration that only the gold received in the same form in which it was looted was to be recognized as loot, since information in their possession permitted exact identification of the recovered gold. It was maintained that once looted, the gold remains loot, and that the thief, who has no title, cannot transmit a title. Notwithstanding the detailed proof of looting and documentary identification presented by the Allied Delegations, the Government of Portugal maintained a limited recognition of loot and that pertaining only to 120 unassaulted Dutch bars received by Portugal in the same form in which they were looted. With respect to these bars the Portuguese said, "It is "...disposed, in order to avoid difficult and protracted issues of proof, to agree to submit, on the basis of the declarations made by the Allied Governments, that the gold acquired by the Bank of Portugal from the Reichsbank in the period indicated and without the stamp or mark of the Mint or of an official German establishment, is considered as having been looted. On the other hand, and with respect to such gold, the rights of previous purchasers and retention are waived, provided that, in the liquidation of the German assets in Portugal, the Portuguese Government will be assured of the reimbursement of that value." (Exhibit IV)

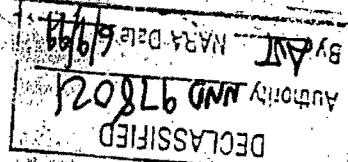
5. The Portuguese offer to deliver 3.9 tons of gold on the condition that compensation for it be received from the proceeds of the liquidation of German assets in Portugal has not been considered as a satisfactory offer of restitution. It is considered by the Allied Delegations as an expression of willingness to sell that quantity of gold.

6. The Allies seek restitution from the Government of Portugal in fulfillment of its obligations under Resolution VI of Buenos Aires, "to hold at the disposition of the post-war International authorities in the appropriate country any such assets..." Restitution to the Bank of Portugal requires a Portuguese domestic matter, and the international obligation is not qualified by the consideration of the good faith of the holder of such gold within Portuguese jurisdiction.

7. Considerations of the application of the Portuguese and other legal systems to the question of restitution of stolen property were discussed in detail in earlier notes (Exhibits III and III). The principle that a holder in good faith may require immunity applies only (without evaluation of Portuguese law) in a few countries and then when the goods are purchased in market cost. It is maintained that the sale of goods for gold did not constitute a sale of the gold in an open market.

8. In discussing the legal arguments raised by the Portuguese, the Allies have not implied that the question of restitution of looted gold is amenable of adjudication in any domestic tribunal, but maintain that the solution to an issue between sovereign states is properly the subject of negotiations such as had taken place and if adjudicated, only in an International Tribunal.

9. The claim that had the Portuguese granted credits to Germany instead of demanding gold in payment they would have been in a better position to obtain payment will not withstand the facts. Had the Portuguese clearing balance been increased by the amount of claims to Germany, the amount of such claims on German assets would still be the subject of negotiations with the Allies, and recognition of a superior claim on German assets in Portugal would favor Portugal over creditors of Germany who may have superior claims but who held no such assets. The restitution of looted gold would not establish for Portugal a right to full or partial compensation from German assets in Portugal to cover the restitution.



On February 16, 1949 an Allied note was delivered to the Portuguese Ministry of Foreign Affairs (Exhibit XII). This note requested the Portuguese Government to consider the immediate implementation of the Accord of February 21, 1947 for the liquidation of German assets in Portuguese Territory. With respect to the Accord on German assets in Portuguese Territory (Appendix XI), one of the letters ancillary thereto provides that the Accord should come into force, "only when the other matters which have been discussed by the delegations shall be definitely disposed of by agreement between the four governments". Implementation of the Accord was therefore dependent upon a gold settlement. There does not appear to be reason at this time to analyze the accord since the purpose of this report is to present the case with respect to looted gold. The request for operation of part of the Accord without awaiting a settlement on looted gold provided for the proceeds of the liquidation to be placed in a blocked account until, "some future date when the provisions of the Accord not already executed could be implemented".

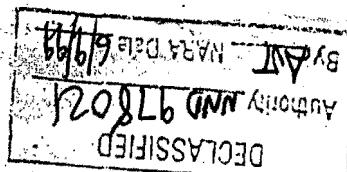
The Portuguese replied in a note of February 26, 1949 (Exhibit XIII) that it agreed to the execution of that part of the 1947 Accord concerned with the liquidation of German assets and for the proceeds to be deposited in a blocked account pending a settlement of the gold question. A liquidating commission including a representative of the Allied Governments has been established.

The last note was one received by the British Ambassador from the Portuguese Ministry of Foreign Affairs on August 12, 1949 (Exhibit XIV). This most recent Portuguese note concludes, as had the Allied note of February 2, 1949 to which it replied, that, no useful purpose would be served by the continuation of the discussions. The Portuguese note takes the identical attitude that it is upon the insistence of a solution with respect to looted gold by the Allied Powers, "legitimacy of which they were unable to demonstrate," which has led to preventing the liquidation of German properties at the best opportunity. The Portuguese maintain again that it has not been demonstrated what the origin of the gold in the possession of the Bank of Portugal has been, and that the question remains essentially jurisdictional.

This Portuguese note states that the offer in the earlier note of July 8, 1949 (Exhibit XV) is maintained but, "owing to the conditions of wide deficit in its balance of payments and the great reduction of its resources....even this proposal cannot be carried out."

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Box 462  
F. 18: 1949 - Looted Gold - Restitution & Claims, Vol 2  
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