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**TITLE 3—THE PRESIDENT  
1938—1943 Compilation**

CONTAINING THE FULL TEXT OF PRESIDENTIAL DOCUMENTS  
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**TREASURY DEPARTMENT**

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## NEW MEXICO

## NEW MEXICO PRINCIPAL MERIDIAN

In Public Water Reserve No. 107, of April 17, 1928, as construed by Department of the Interior Interpretation No. 137, of October 18, 1930:

T. 14 N., R. 2 W., sec. 4, lots 3 and 4,  
S $\frac{1}{2}$ NW $\frac{1}{4}$  (NW $\frac{1}{4}$ ), W $\frac{1}{2}$ SW $\frac{1}{4}$ .

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE

June 13, 1941.

## EXECUTIVE ORDER 8785

REGULATING TRANSACTIONS IN FOREIGN EXCHANGE AND FOREIGN-OWNED PROPERTY, PROVIDING FOR THE REPORTING OF ALL FOREIGN-OWNED PROPERTY, AND RELATED MATTERS.

By virtue of and pursuant to the authority vested in me by Section 5 (b) of the Act of October 6, 1917 (40 Stat. 415), as amended, by virtue of all other authority vested in me, and by virtue of the existence of a period of unlimited national emergency, and finding that this Order is in the public interest and is necessary in the interest of national defense and security, I, FRANKLIN D. ROOSEVELT, PRESIDENT of the UNITED STATES OF AMERICA, do prescribe the following:

Executive Order No. 8389 of April 10, 1940, as amended, is amended to read as follows:

SECTION 1. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if (i) such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in this Order, or any national thereof, or (ii) such transactions involve property in which any foreign country designated in this Order, or any national thereof, has at any time on or since the effective date of this Order had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United

States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

SECTION 2. A. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise:

(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in this Order or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

B. The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or instructions as he may prescribe, by means of licenses or otherwise, the send-

ing, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

SECTION 3. The term "foreign country designated in this Order" means a foreign country included in the following schedule, and the term "effective date of this Order" means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

- (a) April 8, 1940— Norway and Denmark; *4/9/40*
- (b) May 10, 1940— *5/15* The Netherlands, *5/27* Belgium and Luxembourg; *would be inv IV -*
- (c) June 17, 1940— France (including Monaco); *2. Army 6/12/40*
- (d) July 10, 1940— Latvia, Estonia and Lithuania;
- (e) October 9, 1940— Rumania; *— Russ N. Russ*
- (f) March 4, 1941— Bulgaria;
- (g) March 13, 1941— Hungary;
- (h) March 24, 1941— Yugoslavia;
- (i) April 28, 1941— Greece; and
- (j) June 14, 1941— Albania, Andorra, Austria, Czechoslovakia, Danzig, Finland, Germany, Italy, Liechtenstein, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, and Union of Soviet Socialist Republics.

The "effective date of this Order" with respect to any foreign country not designated in this Order shall be deemed to be June 14, 1941.

SECTION 4. A. The Secretary of the Treasury and/or the Attorney General may require, by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, from time to time and at any time or times, complete information relative to, any transaction referred to in section 5 (b) of the Act of October 6, 1917 (40 Stat. 415), as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of this Order.

B. Every person engaging in any of the transactions referred to in sections 1 and 2 of this Order shall keep a full record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

SECTION 5. A. As used in the first paragraph of section 1 of this Order "transactions [which] involve property in which any foreign country designated in this Order, or any national thereof, has \* \* \* any interest of any nature whatsoever, direct or indirect," shall include, but not by way of limitation (i) any payment or transfer to any such foreign country or national thereof, (ii) any export or withdrawal from the United States to such foreign country, and (iii) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such foreign country.

B. The term "United States" means the United States and any place subject to the jurisdiction thereof; the term "continental United States" means the

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*2. Army*  
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*1939*  
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*5/7/39 -*  
*Ax's Pact*  
*Tri Pact 9/27/40 - 9/27 + Japan Balkans by end 1940*

states of the United States, the District of Columbia, and the Territory of Alaska.

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation,

(i) The state and the government thereof on the effective date of this Order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof,

(ii) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise *de jure* or *de facto* sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing.

E. The term "national" shall include,

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of this Order,

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of this Order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, such foreign country and/or one or more nationals thereof as herein defined,

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this Order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control or 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this Order or national thereof, as herein defined.

F. The term "banking institution" as used in this Order shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

G. The term "this Order", as used

herein, shall mean Executive Order No. 8389 of April 10, 1940, as amended.

SECTION 6. Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934. Executive Order No. 6560 of January 15, 1934, and the Regulations of November 12, 1934, are hereby modified in so far as they are inconsistent with the provisions of this Order, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling, or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to this Order; provided, however, that all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of this Order of any orders, regulations, rulings, instructions or licenses shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

SECTION 7. Without limitation as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provision of this Order, the Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this Order and to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate, and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

SECTION 8. Section 5 (b) of the Act of October 6, 1917, as amended, provides in part:

"\* \* \* Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural per-

son, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both."

SECTION 9. This Order and any regulations, rulings, licenses or instructions issued hereunder may be amended, modified or revoked at any time.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

June 14, 1941.

#### EXECUTIVE ORDER 8786

#### WITHDRAWAL OF PUBLIC LANDS FOR THE USE OF THE NAVY DEPARTMENT FOR NAVAL AVIATION PURPOSES

##### ALASKA

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of Title II of the act of June 11, 1940, 54 Stat. 265, 292, authorizing the establishment of naval aviation shore facilities, it is ordered as follows:

SECTION 1. Subject to valid existing rights, the public lands on Amaknak Island, Alaska, comprising approximately 1,930 acres, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and reserved for the use of the Navy Department for naval aviation purposes, subject to the withdrawals of portions of the island made by Executive Order No. 1733 of March 3, 1913, as amended by Executive Order No. 5243 of December 19, 1929, for use as a preserve and breeding ground for native birds and for other purposes, and Executive Order No. 6044 of February 23, 1933, for the protection of the fishing rights of Alaska natives, when such uses will not interfere with naval activities; and subject to the existing reservations for lighthouse purposes of certain small tracts.

SECTION 2. The reservation made by section one of this order supersedes, so far as any lands on Amaknak Island are affected, the reservations made by the Executive order of June 10, 1902, and by Executive Orders Nos. 1456, 7816,<sup>1</sup> and 7847<sup>2</sup> of January 6, 1912, February 15,

<sup>1</sup> 3 F.R. 385.

<sup>2</sup> 3 F.R. 615.

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**THE**  
**STATUTES AT LARGE** *V. 48, Pt. 1*

OF THE  
**UNITED STATES OF AMERICA**

FROM  
**MARCH 1933 to JUNE 1934**

**CONCURRENT RESOLUTIONS**  
**RECENT TREATIES AND CONVENTIONS, EXECUTIVE PROCLAMATIONS**  
**AND AGREEMENTS, TWENTY-FIRST AMENDMENT**  
**TO THE CONSTITUTION**

EDITED, PRINTED, AND PUBLISHED BY AUTHORITY OF CONGRESS  
UNDER THE DIRECTION OF THE SECRETARY OF STATE

**VOL. XLVIII**  
**IN TWO PARTS**

- PART 1—Public Acts and Resolutions.**
- PART 2—Private Acts and Resolutions, Concurrent Resolutions**  
**Treaties and Conventions, Executive Proclamations**  
**and Agreements, Twenty-first Amendment to the**  
**Constitution.**

**PART 1**

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**TREASURY DEPARTMENT**

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# PUBLIC LAWS OF THE SEVENTY-THIRD CONGRESS

OF THE

## UNITED STATES OF AMERICA

*Passed at the first session, which was begun and held at the city of Washington, in the District of Columbia, on Thursday, the ninth day of March, 1933, and was adjourned without day on Friday, the sixteenth day of June, 1933.*

FRANKLIN D. ROOSEVELT, President; JOHN N. GARNER, Vice President; KEY PITTMAN, President of the Senate *pro tempore*; HENRY T. RAINEY, Speaker of the House of Representatives.

[CHAPTER 1.]

### AN ACT

To provide relief in the existing national emergency in banking, and for other purposes.

March 9, 1933.  
[H. R. 1491.]  
[Public, No. 1.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress hereby declares that a serious emergency exists and that it is imperatively necessary speedily to put into effect remedies of uniform national application.

National banking system.  
Emergency declared existing.

### TITLE I

SECTION 1. The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the Act of October 6, 1917, as amended, are hereby approved and confirmed.

Proclamations, orders, etc., issued since March 4, 1933; approval.

Post, p. 343.  
Trading with the Enemy Act, amended. Vol. 40, pp. 415, 966, amended.

Foreign exchange, export or hoarding of coin, bullion, etc.  
Regulatory powers of President during national emergency.

SEC. 2. Subdivision (b) of section 5 of the Act of October 6, 1917 (40 Stat. L. 411), as amended, is hereby amended to read as follows:

"(b) During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person engaged in any transaction referred to in this subdivision to furnish under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned

Compulsory testimony, etc.

Punishment for violation.

for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term 'person' means an individual, partnership, association, or corporation."

"Person" construed.  
Federal Reserve Act, amended.  
Vol. 39, p. 752.  
Emergency impounding of gold.  
Authority of Secretary of Treasury.

SEC. 3. Section 11 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(n) Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations and corporations. Upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury shall pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States. The Secretary of the Treasury shall pay all costs of the transportation of such gold bullion, gold certificates, coin, or currency, including the cost of insurance, protection, and such other incidental costs as may be reasonably necessary. Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury made under this subsection shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect of which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise."

Exchange for any other form of currency, etc.

Reimbursing transportation costs.

Hoarding, etc., deemed an offense.

Penalty.

Operations of the National Banking and Federal Reserve Systems.  
Emergency suspension, etc., provided for.

SEC. 4. In order to provide for the safer and more effective operation of the National Banking System and the Federal Reserve System, to preserve for the people the full benefits of the currency provided for by the Congress through the National Banking System and the Federal Reserve System, and to relieve interstate commerce of the burdens and obstructions resulting from the receipt on an unsound or unsafe basis of deposits subject to withdrawal by check, during such emergency period as the President of the United States by proclamation may prescribe, no member bank of the Federal Reserve System shall transact any banking business except to such extent and subject to such regulations, limitations and restrictions as may be prescribed by the Secretary of the Treasury, with the approval of the President. Any individual, partnership, corporation, or association, or any director, officer or employee thereof, violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or, if a natural person, may, in addition to such fine, be imprisoned for a term not exceeding ten years. Each day that any such violation continues shall be deemed a separate offense.

Proclamation.

Penalty for violation.

Each day a separate offense.

TITLE II

"Bank Conservation Act."  
Citation of title.  
Terms construed.  
Post, p. 72.

SEC. 201. This title may be cited as the "Bank Conservation Act."

SEC. 202. As used in this title, the term "bank" means (1) any national banking association, and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency; and the term "State" means any State, Territory, or possession of the United States, and the Canal Zone.

Conservators.

SEC. 203. Whenever he shall deem it necessary in order to conserve the assets of any bank for the benefit of the depositors and other

creditors thereof, the Comptroller of the Currency may appoint a conservator for such bank and require of him such bond and security as the Comptroller of the Currency deems proper. The conservator, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such bank, and take such action as may be necessary to conserve the assets of such bank pending further disposition of its business as provided by law. Such conservator shall have all the rights, powers, and privileges now possessed by or hereafter given receivers of insolvent national banks and shall be subject to the obligations and penalties, not inconsistent with the provisions of this title, to which receivers are now or may hereafter become subject. During the time that such conservator remains in possession of such bank, the rights of all parties with respect thereto shall, subject to the other provisions of this title, be the same as if a receiver had been appointed therefor. All expenses of any such conservatorship shall be paid out of the assets of such bank and shall be a lien thereon which shall be prior to any other lien provided by this Act or otherwise. The conservator shall receive as salary an amount no greater than that paid to employees of the Federal Government for similar services.

SEC. 204. The Comptroller of the Currency shall cause to be made such examinations of the affairs of such bank as shall be necessary to inform him as to the financial condition of such bank, and the examiner shall make a report thereon to the Comptroller of the Currency at the earliest practicable date.

SEC. 205. If the Comptroller of the Currency becomes satisfied that it may safely be done and that it would be in the public interest, he may, in his discretion, terminate the conservatorship and permit such bank to resume the transaction of its business subject to such terms, conditions, restrictions and limitations as he may prescribe.

SEC. 206. While such bank is in the hands of the conservator appointed by the Comptroller of the Currency, the Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the Comptroller may safely be used for this purpose; and the Comptroller may, in his discretion, permit the conservator to receive deposits, but deposits received while the bank is in the hands of the conservator shall not be subject to any limitation as to payment or withdrawal, and such deposits shall be segregated and shall not be used to liquidate any indebtedness of such bank existing at the time that a conservator was appointed for it, or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such bank existing at the time such conservator was appointed. Such deposits received while the bank is in the hands of the conservator shall be kept on hand in cash, invested in the direct obligations of the United States, or deposited with a Federal reserve bank. The Federal reserve banks are hereby authorized to open and maintain separate deposit accounts for such purpose, or for the purpose of receiving deposits from State officials in charge of State banks under similar circumstances.

SEC. 207. In any reorganization of any national banking association under a plan of a kind which, under existing law, requires the consent, as the case may be, (a) of depositors and other creditors or (b) of stockholders or (c) of both depositors and other creditors and stockholders, such reorganization shall become effective only (1) when the Comptroller of the Currency shall be satisfied that the plan of reorganization is fair and equitable as to all depositors, other cred-

Appointment.  
Bond, etc., required.

To take over all  
books, assets, etc.

Powers and obliga-  
tions of.

Rights under.

Expenses of conser-  
vatorship.

Salary.

Bank examination;  
reports.

Termination of conser-  
vatorship and re-  
sumption of bank busi-  
ness.

Sums for depositors'  
withdrawals or pay-  
ments for creditors set  
aside by conservator.

Receipt of deposits.

Certain limitations  
not applicable to.

Segregation; restric-  
tion on use, etc.

To be kept on hand  
in cash.

Separate accounts to  
be kept.

Bank reorganization.  
Post, p. 72.  
Requirements, etc.

Approval of Comp-  
troller.

226897

Consent of depositors representing 75 per cent of deposits, etc.

Or stockholders.

Depositors and other creditors.

Proviso. Satisfied claims to be deducted.

Disposition of records, assets, etc., on reorganization.

Plan to apply equally.

Segregation of deposits to cease.

Proviso. Notice before turning back control.

To be furnished each depositor.

itors and stockholders and is in the public interest and shall have approved the plan subject to such conditions, restrictions and limitations as he may prescribe and (2) when, after reasonable notice of such reorganization, as the case may require, (A) depositors and other creditors of such bank representing at least 75 per cent in amount of its total deposits and other liabilities as shown by the books of the national banking association or (B) stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the national banking association or (C) both depositors and other creditors representing at least 75 per cent in amount of the total deposits and other liabilities and stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the national banking association, shall have consented in writing to the plan of reorganization: *Provided, however,* That claims of depositors or other creditors which will be satisfied in full under the provisions of the plan of reorganization shall not be included among the total deposits and other liabilities of the national banking association in determining the 75 per cent thereof as above provided. When such reorganization becomes effective, all books, records, and assets of the national banking association shall be disposed of in accordance with the provisions of the plan and the affairs of the national banking association shall be conducted by its board of directors in the manner provided by the plan and under the conditions, restrictions and limitations which may have been prescribed by the Comptroller of the Currency. In any reorganization which shall have been approved and shall have become effective as provided herein, all depositors and other creditors and stockholders of such national banking association, whether or not they shall have consented to such plan of reorganization, shall be fully and in all respects subject to and bound by its provisions, and claims of all depositors and other creditors shall be treated as if they had consented to such plan of reorganization.

Sec. 208. After fifteen days after the affairs of a bank shall have been turned back to its board of directors by the conservator, either with or without a reorganization as provided in section 207 hereof, the provisions of section 206 of this title with respect to the segregation of deposits received while it is in the hands of the conservator and with respect to the use of such deposits to liquidate the indebtedness of such bank shall no longer be effective: *Provided,* That before the conservator shall turn back the affairs of the bank to its board of directors he shall cause to be published in a newspaper published in the city, town or county in which such bank is located, and if no newspaper is published in such city, town or county, in a newspaper to be selected by the Comptroller of the Currency published in the State in which the bank is located, a notice in form approved by the Comptroller, stating the date on which the affairs of the bank will be returned to its board of directors and that the said provisions of section 206 will not be effective after fifteen days after such date; and on the date of the publication of such notice the conservator shall immediately send to every person who is a depositor in such bank under section 206 a copy of such notice by registered mail addressed to the last known address of such person as shown by the records of the bank, and the conservator shall send similar notice in like manner to every person making deposit in such bank under section 206 after the date of such newspaper publication and before the time when the affairs of the bank are returned to its directors.

SEC. 209. Conservators appointed pursuant to the provisions of this title shall be subject to the provisions of and to the penalties prescribed by section 5209 of the Revised Statutes (U. S. C., Title 12, sec. 592); and sections 112, 113, 114, 115, 116 and 117 of the Criminal Code of the United States (U. S. C., Title 18, secs. 202, 203, 204, 205, 206 and 207), in so far as applicable, are extended to apply to contracts, agreements, proceedings, dealings, claims and controversies by or with any such conservator or the Comptroller of the Currency under the provisions of this title.

SEC. 210. Nothing in this title shall be construed to impair in any manner any powers of the President, the Secretary of the Treasury, the Comptroller of the Currency, or the Federal Reserve Board.

SEC. 211. The Comptroller of the Currency is hereby authorized and empowered, with the approval of the Secretary of the Treasury, to prescribe such rules and regulations as he may deem necessary in order to carry out the provisions of this title. Whoever violates any rule or regulation made pursuant to this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

### TITLE III

SEC. 301. Notwithstanding any other provision of law, any national banking association may, with the approval of the Comptroller of the Currency and by vote of shareholders owning a majority of the stock of such association, upon not less than five days' notice, given by registered mail pursuant to action taken by its board of directors, issue preferred stock in such amount and with such par value as shall be approved by said Comptroller, and make such amendments to its articles of association as may be necessary for this purpose; but, in the case of any newly organized national banking association which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in.

SEC. 302. (a) The holders of such preferred stock shall be entitled to cumulative dividends at a rate not exceeding 6 per centum per annum, but shall not be held individually responsible as such holders for any debts, contracts, or engagements of such association and shall not be liable for assessments to restore impairments in the capital of such association as now provided by law with reference to holders of common stock. Notwithstanding any other provision of law, the holders of such preferred stock shall have such voting rights, and such stock shall be subject to retirement in such manner and on such terms and conditions, as may be provided in the articles of association with the approval of the Comptroller of the Currency.

(b) No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full; and, if the association is placed in voluntary liquidation or a conservator or a receiver is appointed therefor, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have been paid in full the par value of such stock plus all accumulated dividends.

SEC. 303. The term "common stock" as used in this title means stock of national banking associations other than preferred stock issued under the provisions of this title. The term "capital" as used in provisions of law relating to the capital of national banking associations shall mean the amount of unimpaired common stock plus

Provisions governing conservators.  
R. S. sec. 5209, p. 1007;  
U. S. C. pp. 291, 476.  
Vol. 35, p. 1108.  
Vol. 40, p. 972.

Powers of President, etc., not impaired.

Rules to be prescribed.

National banks.  
Preferred stock.  
Post, p. 147.  
Issue of, by vote of shareholders.

Amount, par value, etc.

Payment.

Dividends.  
Post, p. 148.

Liability of shareholders.

Voting rights.

Retirement provisions.

Priority.

Definitions.  
"Common stock."

"Capital."

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"Capital stock."

Reconstruction Finance Corporation.  
Subscription for preferred stock.  
Post, p. 21.

Sale of, permitted.

Increase of outstanding obligations authorized.

the amount of preferred stock outstanding and unimpaired; and the term "capital stock", as used in section 12 of the Act of March 14, 1900, shall mean only the amount of common stock outstanding.

SEC. 304. If in the opinion of the Secretary of the Treasury any national banking association or any State bank or trust company is in need of funds for capital purposes either in connection with the organization or reorganization of such association, State bank or trust company or otherwise, he may, with the approval of the President, request the Reconstruction Finance Corporation to subscribe for preferred stock in such association, State bank or trust company, or to make loans secured by such stock as collateral, and the Reconstruction Finance Corporation may comply with such request. The Reconstruction Finance Corporation may, with the approval of the Secretary of the Treasury, and under such rules and regulations as he may prescribe, sell in the open market or otherwise the whole or any part of the preferred stock of any national banking association, State bank or trust company acquired by the Corporation pursuant to this section. The amount of notes, bonds, debentures, and other such obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions of this section.

#### TITLE IV

Federal Reserve Act, amendments.  
Vol. 38, p. 269, amended.  
U.S.C., p. 236.  
Delivery of circulating notes on deposit of U.S. bonds, etc.  
Post, p. 21.

Amount of issue.

Value, use, etc.

Redemption.

Regulations.

Tax.

Issue to cease when emergency terminates; exception.

SEC. 401. The sixth paragraph of Section 18 of the Federal Reserve Act is amended to read as follows:

"Upon the deposit with the Treasurer of the United States, (a) of any direct obligations of the United States or (b) of any notes, drafts, bills of exchange, or bankers' acceptances acquired under the provisions of this Act, any Federal reserve bank making such deposit in the manner prescribed by the Secretary of the Treasury shall be entitled to receive from the Comptroller of the Currency circulating notes in blank, duly registered and countersigned. When such circulating notes are issued against the security of obligations of the United States, the amount of such circulating notes shall be equal to the face value of the direct obligations of the United States so deposited as security; and, when issued against the security of notes, drafts, bills of exchange and bankers' acceptances acquired under the provisions of this Act, the amount thereof shall be equal to not more than 90 per cent of the estimated value of such notes, drafts, bills of exchange and bankers' acceptances so deposited as security. Such notes shall be the obligations of the Federal reserve bank procuring the same, shall be in form prescribed by the Secretary of the Treasury, shall be receivable at par in all parts of the United States for the same purposes as are national bank notes, and shall be redeemable in lawful money of the United States on presentation at the United States Treasury or at the bank of issue. The Secretary of the Treasury is authorized and empowered to prescribe regulations governing the issuance, redemption, replacement, retirement and destruction of such circulating notes and the release and substitution of security therefor. Such circulating notes shall be subject to the same tax as is provided by law for the circulating notes of national banks secured by 2 per cent bonds of the United States. No such circulating notes shall be issued under this paragraph after the President has declared by proclamation that the

emergency recognized by the President by proclamation of March 6, 1933, has terminated, unless such circulating notes are secured by deposits of bonds of the United States bearing the circulation privilege. When required to do so by the Secretary of the Treasury, each Federal reserve agent shall act as agent of the Treasurer of the United States or of the Comptroller of the Currency, or both, for the performance of any of the functions which the Treasurer or the Comptroller may be called upon to perform in carrying out the provisions of this paragraph. Appropriations available for distinctive paper and printing United States currency or national bank currency are hereby made available for the production of the circulating notes of Federal reserve banks herein provided; but the United States shall be reimbursed by the Federal reserve bank to which such notes are issued for all expenses necessarily incurred in connection with the procuring of such notes and all other expenses incidental to their issue, redemption, replacement, retirement and destruction."

SEC. 402. Section 10(b) of the Federal Reserve Act, as amended, is further amended to read as follows:

"SEC. 10(b). In exceptional and exigent circumstances, and when any member bank has no further eligible and acceptable assets available to enable it to obtain adequate credit accommodations through rediscounting at the Federal reserve bank or any other method provided by this Act other than that provided by section 10 (a), any Federal reserve bank, under rules and regulations prescribed by the Federal Reserve Board, may make advances to such member bank on its time or demand notes secured to the satisfaction of such Federal reserve bank. Each such note shall bear interest at a rate not less than 1 per centum per annum higher than the highest discount rate in effect at such Federal reserve bank on the date of such note. No advance shall be made under this section after March 3, 1934, or after the expiration of such additional period not exceeding one year as the President may prescribe."

SEC. 403. Section 13 of the Federal Reserve Act, as amended, is amended by adding at the end thereof the following new paragraph:

"Subject to such limitations, restrictions and regulations as the Federal Reserve Board may prescribe, any Federal reserve bank may make advances to any individual, partnership or corporation on the promissory notes of such individual, partnership or corporation secured by direct obligations of the United States. Such advances shall be made for periods not exceeding 90 days and shall bear interest at rates fixed from time to time by the Federal reserve bank, subject to the review and determination of the Federal Reserve Board."

#### TITLE V

SEC. 501. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$2,000,000, which shall be available for expenditure, under the direction of the President and in his discretion, for any purpose in connection with the carrying out of this Act.

SEC. 502. The right to alter, amend, or repeal this Act is hereby expressly reserved. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Approved, March 9, 1933, 8.30 p. m.

Agent of Treasurer  
or Comptroller of the  
Currency.

Sums available for  
expenses.

Reimbursement.

Vol. 47, p. 56,  
amended.  
U.S.C., Supp. VI,  
p. 138.

Advances to member  
banks when acceptable  
assets not available for  
rediscount.  
Post, p. 21.

Security.

Interest.

Expiration.

Advances to indi-  
viduals, etc.

Security, interest,  
etc.

Post, p. 20.

Appropriation.

Amendment, etc.

Saving provision.

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THE  
**STATUTES AT LARGE** *V.48, Pt.1*

OF THE  
UNITED STATES OF AMERICA

FROM  
MARCH 1933 to JUNE 1934

CONCURRENT RESOLUTIONS  
RECENT TREATIES AND CONVENTIONS, EXECUTIVE PROCLAMATIONS  
AND AGREEMENTS, TWENTY-FIRST AMENDMENT  
TO THE CONSTITUTION

EDITED, PRINTED, AND PUBLISHED BY AUTHORITY OF CONGRESS  
UNDER THE DIRECTION OF THE SECRETARY OF STATE

VOL. XLVIII

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- PART 1—Public Acts and Resolutions.
- PART 2—Private Acts and Resolutions, Concurrent Resolutions  
Treaties and Conventions, Executive Proclamations  
and Agreements, Twenty-first Amendment to the  
Constitution.

PART 1

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UNITED STATES  
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WASHINGTON : 1934

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SEC. 37. Any offense committed, or any right accrued, or any penalty or obligation incurred, or any seizure or forfeiture made, prior to the effective date of this Act, under the provisions of the National Prohibition Act, as amended and supplemented, or under any permit or regulation issued thereunder, or under any other provision of law repealed by this Act, may be prosecuted or enforced in the same manner and with the same effect as if this Act had not been enacted.

Saving clause; continuing prosecutions, etc.

SEC. 38. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Separability of provisions.

Approved, January 24, 1934.

[CHAPTER 5.]

AN ACT

Relating to contracts and agreements under the Agricultural Adjustment Act.

January 25, 1934.

[S. 2284.]

[Public, No. 86.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section 3741 of the Revised Statutes (U.S.C., title 41, sec. 22) and sections 114 and 115 of the Criminal Code of the United States (U.S.C., title 18, secs. 204 and 205) shall not apply to any contracts or agreements heretofore or hereafter entered into under the Agricultural Adjustment Act.

Contracts, etc., under Agricultural Adjustment Act.

Participation in; by Members of Congress, etc., permitted. R. S. sec. 3741, p. 737; Vol. 35, p. 1109; U.S.C., p. 476.

Approved, January 25, 1934.

[CHAPTER 6.]

AN ACT

To protect the currency system of the United States, to provide for the better use of the monetary gold stock of the United States, and for other purposes.

January 30, 1934.

[H. R. 6976.]

[Public, No. 87.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the short title of this Act shall be the "Gold Reserve Act of 1934."

Gold Reserve Act of 1934.

Post, p. 1060.

SEC. 2. (a) Upon the approval of this Act all right, title, and interest, and every claim of the Federal Reserve Board, of every Federal Reserve bank, and of every Federal Reserve agent, in and to any and all gold coin and gold bullion shall pass to and are hereby vested in the United States; and in payment therefor credits in equivalent amounts in dollars are hereby established in the Treasury in the accounts authorized under the sixteenth paragraph of section 16 of the Federal Reserve Act, as heretofore and by this Act amended (U.S.C., title 12, sec. 467). Balances in such accounts shall be payable in gold certificates, which shall be in such form and in such denominations as the Secretary of the Treasury may determine. All gold so transferred, not in the possession of the United States, shall be held in custody for the United States and delivered upon the order of the Secretary of the Treasury; and the Federal Reserve Board, the Federal Reserve banks, and the Federal Reserve agents shall give such instructions and shall take such action as may be necessary to assure that such gold shall be so held and delivered.

Gold coin and bullion.

Title of Federal Reserve Board, etc., vested in United States.

Payments. Credits established.

Vol. 40, p. 238; U.S.C., p. 287.

Balances payable in gold certificates.

Custody and delivery.

(b) Section 16 of the Federal Reserve Act, as amended, is further amended in the following respects:

Federal Reserve notes.

Vol. 38, p. 265; U. S. C., p. 284; Post, p. 398.

Redemption in lawful money.

(1) The third sentence of the first paragraph is amended to read as follows: "They shall be redeemed in lawful money on demand at the Treasury Department of the United States, in the city of Washington, District of Columbia, or at any Federal Reserve bank."

Application for notes; collateral required.  
Post, p. 393.

Vol. 38, p. 203; U.S. C., p. 284.

Reserves against deposits and circulating notes.  
Vol. 40, p. 236; U.S. C., p. 285.

Proviso.  
Gold certificates held as collateral included in.

Redemption of notes at the Treasury.  
Reimbursement by issuing bank.  
Vol. 40, p. 236; U.S. C., p. 285.

Maintenance of gold certificate reserve for redemptions.

Disposition of notes received otherwise than for redemption.

Vol. 40, p. 237; U.S. C., p. 285.

Gold certificates deposited in Treasury for redemption of issued notes.

Minimum amount.

Reserve Board authority respecting note issues.

Interest rate.

(2) So much of the third sentence of the second paragraph as precedes the proviso is amended to read as follows: "The collateral security thus offered shall be notes, drafts, bills of exchange, or acceptances acquired under the provisions of section 13 of this Act, or bills of exchange endorsed by a member bank of any Federal Reserve district and purchased under the provisions of section 14 of this Act, or bankers' acceptances purchased under the provisions of said section 14, or gold certificates:"

(3) The first sentence of the third paragraph is amended to read as follows: "Every Federal Reserve bank shall maintain reserves in gold certificates or lawful money of not less than 35 per centum against its deposits and reserves in gold certificates of not less than 40 per centum against its Federal Reserve notes in actual circulation: *Provided, however,* That when the Federal Reserve agent holds gold certificates as collateral for Federal Reserve notes issued to the bank such gold certificates shall be counted as part of the reserve which such bank is required to maintain against its Federal Reserve notes in actual circulation."

(4) The fifth and sixth sentences of the third paragraph are amended to read as follows: "Notes presented for redemption at the Treasury of the United States shall be paid out of the redemption fund and returned to the Federal Reserve banks through which they were originally issued, and thereupon such Federal Reserve bank shall, upon demand of the Secretary of the Treasury, reimburse such redemption fund in lawful money or, if such Federal Reserve notes have been redeemed by the Treasurer in gold certificates, then such funds shall be reimbursed to the extent deemed necessary by the Secretary of the Treasury in gold certificates, and such Federal Reserve bank shall, so long as any of its Federal Reserve notes remain outstanding, maintain with the Treasurer in gold certificates an amount sufficient in the judgment of the Secretary to provide for all redemptions to be made by the Treasurer. Federal Reserve notes received by the Treasurer otherwise than for redemption may be exchanged for gold certificates out of the redemption fund hereinafter provided and returned to the Reserve bank through which they were originally issued, or they may be returned to such bank for the credit of the United States."

(5) The fourth, fifth, and sixth paragraphs are amended to read as follows:

"The Federal Reserve Board shall require each Federal Reserve bank to maintain on deposit in the Treasury of the United States a sum in gold certificates sufficient in the judgment of the Secretary of the Treasury for the redemption of the Federal Reserve notes issued to such bank, but in no event less than 5 per centum of the total amount of notes issued less the amount of gold certificates held by the Federal Reserve agent as collateral security; but such deposit of gold certificates shall be counted and included as part of the 40 per centum reserve hereinbefore required. The Board shall have the right, acting through the Federal Reserve agent, to grant in whole or in part, or to reject entirely the application of any Federal Reserve bank for Federal Reserve notes; but to the extent that such application may be granted the Federal Reserve Board shall, through its local Federal Reserve agent, supply Federal Reserve notes to the banks so applying, and such bank shall be charged with the amount of the notes issued to it and shall pay such rate of interest as may be established by the Federal Reserve Board on only that amount of such notes which equals the total amount of its outstanding Federal Reserve notes less the amount of gold certificates held by the Federal Reserve agent as collateral security.

Federal Reserve notes issued to any such bank shall, upon delivery, together with such notes of such Federal Reserve bank as may be issued under section 18 of this Act upon security of United States 2 per centum Government bonds, become a first and paramount lien on all the assets of such bank.

"Any Federal Reserve bank may at any time reduce its liability for outstanding Federal Reserve notes by depositing with the Federal Reserve agent its Federal Reserve notes, gold certificates, or lawful money of the United States. Federal Reserve notes so deposited shall not be reissued, except upon compliance with the conditions of an original issue.

"The Federal Reserve agent shall hold such gold certificates or lawful money available exclusively for exchange for the outstanding Federal Reserve notes when offered by the Reserve bank of which he is a director. Upon the request of the Secretary of the Treasury the Federal Reserve Board shall require the Federal Reserve agent to transmit to the Treasurer of the United States so much of the gold certificates held by him as collateral security for Federal Reserve notes as may be required for the exclusive purpose of the redemption of such Federal Reserve notes, but such gold certificates when deposited with the Treasurer shall be counted and considered as if collateral security on deposit with the Federal Reserve agent."

(6) The eighth paragraph is amended to read as follows:

"All Federal Reserve notes and all gold certificates and lawful money issued to or deposited with any Federal Reserve agent under the provisions of the Federal Reserve Act shall hereafter be held for such agent, under such rules and regulations as the Federal Reserve Board may prescribe, in the joint custody of himself and the Federal Reserve bank to which he is accredited. Such agent and such Federal Reserve bank shall be jointly liable for the safekeeping of such Federal Reserve notes, gold certificates, and lawful money. Nothing herein contained, however, shall be construed to prohibit a Federal Reserve agent from depositing gold certificates with the Federal Reserve Board, to be held by such Board subject to his order, or with the Treasurer of the United States for the purposes authorized by law."

(7) The sixteenth paragraph is amended to read as follows:

"The Secretary of the Treasury is hereby authorized and directed to receive deposits of gold or of gold certificates with the Treasurer or any Assistant Treasurer of the United States when tendered by any Federal Reserve bank or Federal Reserve agent for credit to its or his account with the Federal Reserve Board. The Secretary shall prescribe by regulation the form of receipt to be issued by the Treasurer or Assistant Treasurer to the Federal Reserve bank or Federal Reserve agent making the deposit, and a duplicate of such receipt shall be delivered to the Federal Reserve Board by the Treasurer at Washington upon proper advices from any Assistant Treasurer that such deposit has been made. Deposits so made shall be held subject to the orders of the Federal Reserve Board and shall be payable in gold certificates on the order of the Federal Reserve Board to any Federal Reserve bank or Federal Reserve agent at the Treasury or at the Subtreasury of the United States nearest the place of business of such Federal Reserve bank or such Federal Reserve agent. The order used by the Federal Reserve Board in making such payments shall be signed by the governor or vice governor, or such other officers or members as the Board may by regulation prescribe. The form of such order shall be approved by the Secretary of the Treasury."

Lien created.

Reduction of liability for outstanding notes by depositing gold certificates, etc.

Reissue of deposited notes denied.

Use of deposit as collateral for redemption.

Deposited gold certificates as security.

Vol. 40, p. 238; U.S. C., p. 285, amended. Custody of Reserve notes and collateral deposited with Reserve agent.

Liability for safekeeping.

Deposits of gold certificates with Reserve Board, etc., permitted.

Vol. 40, p. 238; U.S. C., p. 287.

Deposits of gold and gold certificates with U.S. Treasurer by Reserve bank or agent.

Receipt.

Payments in gold certificates.

Orders for payment.

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Acceptance of deposits as reserves.

(8) The eighteenth paragraph is amended to read as follows:  
 "Deposits made under this section standing to the credit of any Federal Reserve bank with the Federal Reserve Board shall, at the option of said bank, be counted as part of the lawful reserve which it is required to maintain against outstanding Federal Reserve notes, or as a part of the reserve it is required to maintain against deposits."

Federal control over gold.  
 Secretary of the Treasury to issue regulations governing.

SEC. 3. The Secretary of the Treasury shall, by regulations issued hereunder, with the approval of the President, prescribe the conditions under which gold may be acquired and held, transported, melted or treated, imported, exported, or earmarked: (a) for industrial, professional, and artistic use; (b) by the Federal Reserve banks for the purpose of settling international balances; and, (c) for such other purposes as in his judgment are not inconsistent with the purposes of this Act. Gold in any form may be acquired, transported, melted or treated, imported, exported, or earmarked or held in custody for foreign or domestic account (except on behalf of the United States) only to the extent permitted by, and subject to the conditions prescribed in, or pursuant to, such regulations. Such regulations may exempt from the provisions of this section, in whole or in part, gold situated in the Philippine Islands or other places beyond the limits of the continental United States.

Places beyond continental limits.

Forfeiture of gold illegally withheld, etc.

SEC. 4. Any gold withheld, acquired, transported, melted or treated, imported, exported, or earmarked or held in custody, in violation of this Act or of any regulations issued hereunder, or licenses issued pursuant thereto, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law; and in addition any person failing to comply with the provisions of this Act or of any such regulations or licenses, shall be subject to a penalty equal to twice the value of the gold in respect of which such failure occurred.

Penalty.

No gold hereafter to be coined.  
 Vol. 31, p. 45; U.S.C., p. 995.  
*Proviso.*  
 Coinage for foreign countries.  
 U.S.C., p. 999.  
 Withdrawal of gold coin; formed into bars.

SEC. 5. No gold shall hereafter be coined, and no gold coin shall hereafter be paid out or delivered by the United States: *Provided, however,* That coinage may continue to be executed by the mints of the United States for foreign countries in accordance with the Act of January 29, 1874 (U.S.C., title 31, sec. 367). All gold coin of the United States shall be withdrawn from circulation, and, together with all other gold owned by the United States, shall be formed into bars of such weights and degrees of fineness as the Secretary of the Treasury may direct.

United States currency not redeemable in gold.

*Proviso.*  
 Exception, gold certificates owned by Reserve banks.

SEC. 6. Except to the extent permitted in regulations which may be issued hereunder by the Secretary of the Treasury with the approval of the President, no currency of the United States shall be redeemed in gold: *Provided, however,* That gold certificates owned by the Federal Reserve banks shall be redeemed at such times and in such amounts as, in the judgment of the Secretary of the Treasury, are necessary to maintain the equal purchasing power of every kind of currency of the United States: *And provided further,* That the reserve for United States notes and for Treasury notes of 1890, and the security for gold certificates (including the gold certificates held in the Treasury for credits payable therein) shall be maintained in gold bullion equal to the dollar amounts required by law, and the reserve for Federal Reserve notes shall be maintained in gold certificates, or in credits payable in gold certificates maintained with the Treasurer of the United States under section 16 of the Federal Reserve Act, as heretofore and by this Act amended.

Reserves to be maintained.

In gold bullion.

In gold certificates.

No redemptions in gold shall be made except in gold bullion bearing the stamp of a United States mint or assay office in an amount equivalent at the time of redemption to the currency surrendered for such purpose.

SEC. 7. In the event that the weight of the gold dollar shall at any time be reduced, the resulting increase in value of the gold held by the United States (including the gold held as security for gold certificates and as a reserve for any United States notes and for Treasury notes of 1890) shall be covered into the Treasury as a miscellaneous receipt; and, in the event that the weight of the gold dollar shall at any time be increased, the resulting decrease in value of the gold held as a reserve for any United States notes and for Treasury notes of 1890, and as security for gold certificates shall be compensated by transfers of gold bullion from the general fund, and there is hereby appropriated an amount sufficient to provide for such transfers and to cover the decrease in value of the gold in the general fund.

SEC. 8. Section 3700 of the Revised Statutes (U.S.C., title 31, sec. 734) is amended to read as follows:

"SEC. 3700. With the approval of the President, the Secretary of the Treasury may purchase gold in any amounts, at home or abroad, with any direct obligations, coin, or currency of the United States, authorized by law, or with any funds in the Treasury not otherwise appropriated, at such rates and upon such terms and conditions as he may deem most advantageous to the public interest; any provision of law relating to the maintenance of parity, or limiting the purposes for which any of such obligations, coin, or currency, may be issued, or requiring any such obligations to be offered as a popular loan or on a competitive basis, or to be offered or issued at not less than par, to the contrary notwithstanding. All gold so purchased shall be included as an asset of the general fund of the Treasury."

SEC. 9. Section 3699 of the Revised Statutes (U.S.C., title 31, sec. 733) is amended to read as follows:

"SEC. 3699. The Secretary of the Treasury may anticipate the payment of interest on the public debt, by a period not exceeding one year, from time to time, either with or without a rebate of interest upon the coupons, as to him may seem expedient; and he may sell gold in any amounts, at home or abroad, in such manner and at such rates and upon such terms and conditions as he may deem most advantageous to the public interest, and the proceeds of any gold so sold shall be covered into the general fund of the Treasury: *Provided, however,* That the Secretary of the Treasury may sell the gold which is required to be maintained as a reserve or as security for currency issued by the United States, only to the extent necessary to maintain such currency at a parity with the gold dollar."

SEC. 10. (a) For the purpose of stabilizing the exchange value of the dollar, the Secretary of the Treasury, with the approval of the President, directly or through such agencies as he may designate, is authorized, for the account of the fund established in this section, to deal in gold and foreign exchange and such other instruments of credit and securities as he may deem necessary to carry out the purpose of this section. An annual audit of such fund shall be made and a report thereof submitted to the President.

(b) To enable the Secretary of the Treasury to carry out the provisions of this section there is hereby appropriated, out of the receipts which are directed to be covered into the Treasury under section 7 hereof, the sum of \$2,000,000,000, which sum when available

Redemptions in gold to be in bullion only. Amount.

Increase in value of gold due to weight reduction of gold dollar covered into Treasury. Post, p. 1730.

Gold bullion transfers to compensate depreciation.

Appropriation. Post, p. 1060.

R.S. sec. 3700, p. 731; U.S.C., p. 1024, amended.

Gold purchases authorized.

Rates, terms, conditions.

Added to general fund.

R.S., sec. 3699, p. 731; U.S.C., p. 1024.

Anticipating interest payment on public debt.

Sale of gold in public interest.

Parity. Parity maintenance.

Stabilization fund established; purposes.

Annual audit; report to President.

Appropriation for maintenance of fund.

Fund to be under exclusive control of Secretary of Treasury; finality of decisions.

Availability of fund.

Proceeds of sales, etc. hereunder.

Duration of powers conferred.

Rules and regulations authorized.

Fixing weight of the gold dollar, etc.  
*Ante*, p. 53.

Reduction, not exceeding 60% of present weight, authorized.  
Executive powers defined; duration.

*Ante*, p. 53.

Coinage of silver at fixed ratio.  
Issue of silver certificates.  
*Ante*, p. 53.  
*Post*, p. 1178.

Silver certificates against any silver reserve in the Treasury.

shall be deposited with the Treasurer of the United States in a stabilization fund (hereinafter called the "fund") under the exclusive control of the Secretary of the Treasury, with the approval of the President, whose decisions shall be final and not be subject to review by any other officer of the United States. The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for stabilizing the exchange value of the dollar. The proceeds of all sales and investments and all earnings and interest accruing under the operations of this section shall be paid into the fund and shall be available for the purposes of the fund.

(c) All the powers conferred by this section shall expire two years after the date of enactment of this Act, unless the President shall sooner declare the existing emergency ended and the operation of the stabilization fund terminated; but the President may extend such period for not more than one additional year after such date by proclamation recognizing the continuance of such emergency.

SEC. 11. The Secretary of the Treasury is hereby authorized to issue, with the approval of the President, such rules and regulations as the Secretary may deem necessary or proper to carry out the purposes of this Act.

SEC. 12. Paragraph (b) (2), of section 43, title III, of the Act approved May 12, 1933 (Public, Numbered 10, Seventy-third Congress), is amended by adding two new sentences at the end thereof, reading as follows:

"Nor shall the weight of the gold dollar be fixed in any event at more than 60 per centum of its present weight. The powers of the President specified in this paragraph shall be deemed to be separate, distinct, and continuing powers, and may be exercised by him, from time to time, severally or together, whenever and as the expressed objects of this section in his judgment may require; except that such powers shall expire two years after the date of enactment of the Gold Reserve Act of 1934 unless the President shall sooner declare the existing emergency ended, but the President may extend such period for not more than one additional year after such date by proclamation recognizing the continuance of such emergency."

Paragraph (2) of subsection (b) of section 43, title III, of an Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes", approved May 12, 1933, is amended by adding at the end of said paragraph (2) the following:

"The President, in addition to the authority to provide for the unlimited coinage of silver at the ratio so fixed, under such terms and conditions as he may prescribe, is further authorized to cause to be issued and delivered to the tenderer of silver for coinage, silver certificates in lieu of the standard silver dollars to which the tenderer would be entitled and in an amount in dollars equal to the number of coined standard silver dollars that the tenderer of such silver for coinage would receive in standard silver dollars.

"The President is further authorized to issue silver certificates in such denominations as he may prescribe against any silver bullion, silver, or standard silver dollars in the Treasury not then

held for redemption of any outstanding silver certificates, and to coin standard silver dollars or subsidiary currency for the redemption of such silver certificates.

"The President is authorized, in his discretion, to prescribe different terms and conditions and to make different charges, or to collect different seigniorage, for the coinage of silver of foreign production than for the coinage of silver produced in the United States or its dependencies. The silver certificates herein referred to shall be issued, delivered, and circulated substantially in conformity with the law now governing existing silver certificates, except as may herein be expressly provided to the contrary, and shall have and possess all of the privileges and the legal tender characteristics of existing silver certificates now in the Treasury of the United States, or in circulation.

"The President is authorized, in addition to other powers, to reduce the weight of the standard silver dollar in the same percentage that he reduces the weight of the gold dollar.

"The President is further authorized to reduce and fix the weight of subsidiary coins so as to maintain the parity of such coins with the standard silver dollar and with the gold dollar."

SEC. 13. All actions, regulations, rules, orders, and proclamations heretofore taken, promulgated, made or issued by the President of the United States or the Secretary of the Treasury, under the Act of March 9, 1933, or under section 43 or section 45 of title III of the Act of May 12, 1933, are hereby approved, ratified, and confirmed.

SEC. 14. (a) The Second Liberty Bond Act, as amended, is further amended as follows:

(1) By adding at the end of section 1 (U.S.C., title 31, sec. 752; Supp. VII, title 31, sec. 752), a new paragraph as follows:

"Notwithstanding the provisions of the foregoing paragraph, the Secretary of the Treasury may from time to time, when he deems it to be in the public interest, offer such bonds otherwise than as a popular loan and he may make allotments in full, or reject or reduce allotments upon any applications whether or not the offering was made as a popular loan."

(2) By inserting in section 8 (U.S.C., title 31, sec. 771), after the words "certificates of indebtedness", a comma and the words "Treasury bills".

(3) By striking out the figures "\$7,500,000,000" where they appear in section 18 (U.S.C., title 31, sec. 753) and inserting in lieu thereof the figures "\$10,000,000,000."

(4) By adding thereto two new sections, as follows:

"SEC. 19. Notwithstanding any other provisions of law, any obligations authorized by this Act may be issued for the purchase, redemption, or refunding, at or before maturity, of any outstanding bonds, notes, certificates of indebtedness, or Treasury bills, of the United States, or to obtain funds for such purchase, redemption, or refunding, under such rules, regulations, terms, and conditions as the Secretary of the Treasury may prescribe.

"SEC. 20. The Secretary of the Treasury may issue any obligations authorized by this Act and maturing not more than one year from the date of their issue on a discount basis and payable at maturity without interest. Any such obligations may also be offered for sale on a competitive basis under such regulations and upon such terms and conditions as the Secretary of the Treasury may prescribe, and the decisions of the Secretary in respect of any issue shall be final."

Seigniorage charges, etc.

Legal tender, circulation privilege, etc.

Weight of silver dollar may be reduced.

Subsidiary coins.

Designated Executive orders, proclamations, etc., approved. Ante, pp. 1, 51, 53.

Second Liberty Bond Act amendments. Vol. 40, pp. 288, 502, 844; Vol. 40, p. 1506. U.S.C., p. 1026; Supp. VII, p. 770.

Bonds, other than public issue, permitted.

Applications and allotments.

Deposit of proceeds. Vol. 40, p. 291; U.S.C., p. 1029, amended. Treasury bills added.

United States notes, issue. Vol. 40, p. 1310; U.S.C., p. 1026.

Obligations herein authorized may be used to pay outstanding indebtedness, etc.

Short-term non-interest-bearing obligations, on discount basis.

Sale, on competitive basis.

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Cumulative sinking fund. Vol. 40, p. 1311; Vol. 42, p. 1427; Vol. 47, p. 724. Uses "for refunding purposes" repealed. Issue of gold certificates authorized.

(b) Section 6 of the Victory Liberty Loan Act (U.S.C., title 31, sec. 767; Supp. VII, title 31, secs. 767-767a) is amended by striking out the words "for refunding purposes", together with the preceding comma, at the end of the first sentence of subsection (a).

Limitation.

(c) The Secretary of the Treasury is authorized to issue gold certificates in such form and in such denominations as he may determine, against any gold held by the Treasurer of the United States, except the gold fund held as a reserve for any United States notes and Treasury notes of 1890. The amount of gold certificates issued and outstanding shall at no time exceed the value, at the legal standard, of the gold so held against gold certificates.

Definitions.

Sec. 15. As used in this Act the term "United States" means the Government of the United States; the term "the continental United States" means the States of the United States, the District of Columbia, and the Territory of Alaska; the term "currency of the United States" means currency which is legal tender in the United States, and includes United States notes, Treasury notes of 1890, gold certificates, silver certificates, Federal Reserve notes, and circulating notes of Federal Reserve banks and national banking associations; and the term "person" means any individual, partnership, association, or corporation, including the Federal Reserve Board, Federal Reserve banks, and Federal Reserve agents. Whenever reference is made in this Act to equivalents as between dollars or currency of the United States and gold, one dollar or one dollar face amount of any currency of the United States equals such a number of grains of gold, nine tenths fine, as, at the time referred to, are contained in the standard unit of value, that is, so long as the President shall not have altered by proclamation the weight of the gold dollar under the authority of section 43, title III, of the Act approved May 12, 1933, as heretofore and by this Act amended, twenty-five and eight tenths grains of gold, nine tenths fine, and thereafter such a number of grains of gold, nine tenths fine, as the President shall have fixed under such authority.

Equivalents as between dollars or currency, and gold; face value, etc.

Revaluation provision. Ante, p. 52.

SEC. 16. The right to alter, amend, or repeal this Act is hereby expressly reserved. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Rights reserved. Saving clause.

Inconsistent Acts, etc., repealed.

SEC. 17. All Acts and parts of Acts inconsistent with any of the provisions of this Act are hereby repealed.

Approved, January 30, 1934.

[CHAPTER 7.]

AN ACT

January 31, 1934. [H. R. 6670.] [Public, No. 88.]

To provide for the establishment of a corporation to aid in the refinancing of farm debts, and for other purposes.

Federal Farm Mortgage Corporation Act. Corporation established to aid in refinancing of farm debts, etc. Principal office, management, etc. Board of directors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a corporation to be known as the "Federal Farm Mortgage Corporation", hereinafter in this Act referred to as the "corporation." The principal office of the corporation shall be located in the District of Columbia and the management of the corporation shall be vested in a board of directors consisting of the Secretary of the Treasury, or an officer of the Treasury designated by him, the Governor of the Farm Credit Administration, hereinafter in this Act referred to as the "Governor", and the Land Bank

Governor, etc.

## Pertinent Legislation

### **Gold Reserve Act 1933 – March 9, 1933 – no hoarding**

Provide relief in the existing national emergency in banking, and for other purposes (HR 1491, 3/9/33, Pub. L. No. 1; and Trading with the Enemy Act 10/6/17, amdd., Subdiv (b), section 5)

### **Gold Reserve Act 1934 – January 30, 1934 – establishes gold at \$35/troy oz.**

protect currency system of the US, to provide for the better use of the monetary gold stock of the US, and for other purposes; all gold coin, bullion pass to and vested in the US, payment in dollars; all gold not owned by US shall be held in custody (HR 6976, 1/30/34, Pub. L. No. 87)

**Executive Order: 8389 – April 10, 1940** (following transactions prohibited: any transactions by or on behalf of a foreign country...any banking institutions within the US, outside of US; export or withdrawal of gold from US, by any person within the US; **and amended by Executive Order: 8785 – July 14, 1941** (regulating transaction in foreign exchange and foreign owned property, providing for the reporting of all foreign owned property and related matters

**authority transferred through Section 301 of 1<sup>st</sup> War Powers Act 1941, amending Section 5(b) of the Trading with the Enemy Act of Oct. 6, 1917:** (1) during the time of war the President may or through agency designated exercise the power to (a) investigate, regulate, prohibit any transaction in foreign exchange...earmarking gold, or silver coin or bullion, currency, securities; (b) ...involving, any property in which any foreign country or a national thereof has any interest.

June 14, 1941: Austria, Czechoslovakia, Germany, Italy, Poland, Spain, Portugal, Sweden, Switzerland, et al. (April 8, 1940-April 28, 1941 other occupied and invaded countries

*February 11, 1942*

US government is authorized to control the financial transactions of the Swiss representatives in US for the protection of German, Italian and Bulgarian interests. A retaliatory measure to prevent Swiss from using blocked funds. Swiss are to place in appropriate bank account, currency turned over to it by the German, Italian and Bulgarian governments. Swiss question why transfer of funds required for protection of foreign interests in Germany and UK, never needed controls before now.

???Executive Order: 8793

**Executive Order: 9095 – March 11, 1942 – Establishing the Office of Alien Property Custodian** and Defining its functions and duties. Vests in OAP anything it so directs, when the APO writes to Secy of Treas, Secy shall release all control of any such property, or interest therein, to the APO.

**Executive Order: 9193 – July 6, 1942 – Amending EO 9095, Section 2(c): property w/n US owned or controlled by a designated enemy country or national thereof, not**

including cash, bullion, money currencies, deposits, credits, instruments of credit, except as the APO deems these are necessary for the maintenance, safeguarding or other property of the enemy country, or national, is subject to vesting: patents, licenses, ships, prop under judicial supervision.

**House Resolution 188 – March 26, 1943 – 78<sup>th</sup> /1<sup>st</sup> Session (Sen Voorheis, CA)**  
authorized Committee on Banking and Currency to make an investigation of the BIS to determine degree of Axis control, why an American retains position as President, why reps of UN banking institutions continue as members on B/D, if bank being used to further benefit of Axis powers

**House Resolution 67 – January 8, 1945 – 79<sup>th</sup> /1<sup>st</sup> Session (Sen. Voorheis, CA)**  
authorized Committee on Banking and Currency to make an investigation of the BIS to determine degree of Axis control, why an American retains position as President, why reps of UN banking institutions continue as members on B/D, if bank being used to further benefit of Axis powers

**General License No. 94 – Dec. 7, 1945 – relaxation of freezing control of all countries except** Portugal, Spain, Sweden, Switzerland, Liechtenstein, Tangier, Germany and Japan. Italy, Bulgaria, Hungary and Rumania in a separate category because of US declaration of war against these countries.  
Countries affected by this license treated in all respects as non-blocked countries

#### Switzerland:

*Conference:* SNB and Swiss Bankers Assoc. – August 5, 1942:  
forbid exportation of gold and fix price at 4,970 Sfrs. for gold bars; applicable to gold coins. leads to gold export embargo

**Federal Decree – Dec. 7, 1942 – control of gold imports, exports and prices**  
a control of imports and exports of gold; minimum price fixed for gold bars and Swiss and foreign coins.

#### Documents:

**Merits of Proposal to Place an Embargo on Gold Imports**  
Div. of Monetary Research – March 17, 1938

#### **Gold Policy Speech**

Harry Dexter White, April 20, 1940

Harry Dexter White Collection, Seely Mudd Manuscript Library, Princeton University,  
Box #3, File: #85, 30 pp.

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**Whose Gold Are We Buying?**

**Monetary gold: An asset or a liability?**

April 25, 1940 – Amer. Consulate General in Amsterdam to Secy of State

**Memo – US be prepared to scrutinize gold and reject gold of German origin**

June 4, 1940

Pinsant, Brit Embassy to Cochran, Treas

**Memo – Fed Reserve Board Meeting on future of gold**

August 21, 1940

**Memo - How much gold will the US Treasury acquire in 1941?**

April 11, 1940

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OFFICE OF ALIEN  
PROPERTY CUSTODIAN

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*annual report for the  
period March 11, 1942  
to June 30, 1943 \* \* \**



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## EXHIBIT G

### Section 5 (b) of the Trading With the Enemy Act as Amended and Principal Executive Orders Affecting the Office of Alien Property Custodian

#### 1. SECTION 301 OF THE FIRST WAR POWERS ACT, 1941 (PUBLIC LAW 354, DEC. 18, 1941), AMENDING SECTION 5 (b) OF THE TRADING WITH THE ENEMY ACT OF OCTOBER 6, 1917 (40 STAT. 411), AS AMENDED.

SEC. 301. The first sentence of subdivision (b) of section 5 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended to read as follows:

"(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

"(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

"(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

"(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

"(3) As used in this subdivision the term 'United States' means the United States and any place subject to the jurisdiction thereof, including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas: *Provided, however,* That the foregoing shall not be construed as a

limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision."

#### 2. EXECUTIVE ORDER NO. 8389

<sup>5 F.R. 1400</sup> [Executive Order No. 8389, dated April 10, 1940, was amended May 10, 1940, June 17, 1940, July 15, 1940, July 25, 1940, October 10, 1940, March 4, 1941, March 13, 1941, March 24, 1941, April 28, 1941, June 14, 1941, July 26, 1941, December 9, 1941, and December 26, 1941. The original text and intermediate amendments to June 14, 1941 are omitted from this publication. Following is the text of Executive Order No. 8389 as amended by Executive Order No. 8785 dated June 14, 1941, and as further amended by Executive Order No. 8832, dated July 26, 1941, Executive Order No. 8963, dated December 9, 1941, and Executive Order No. 8998, dated December 26, 1941. The amendments effected by these Executive Orders are indicated by footnotes.]

#### EXECUTIVE ORDER NO. 8785, AS AMENDED

REGULATING TRANSACTIONS IN FOREIGN EXCHANGE AND FOREIGN-OWNED PROPERTY, PROVIDING FOR THE REPORTING OF ALL FOREIGN-OWNED PROPERTY, AND RELATED MATTERS

By virtue of and pursuant to the authority vested in me by Section 5 (b) of the Act of October 6, 1917 (40 Stat. 415), as amended, by virtue of all other authority vested in me, and by virtue of the existence of a period of unlimited national emergency, and finding that this Order is in the public interest and is necessary in the interest of national defense and security, I, Franklin D. Roosevelt, President of the United States of America, do prescribe the following:

Executive Order No. 8389 of April 10, 1940, as amended, is amended to read as follows:

SECTION 1. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if (i) such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in this Order, or any national thereof, or (ii) such transactions involve property in which any foreign country designated in this Order, or any national thereof, has at any time on or since the effective date of this Order had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

#### SECTION 2.

A. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise:

(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in this Order or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign

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country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

B. The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

SECTION 3. The term "foreign country designated in this Order" means a foreign country included in the following schedule, and the term "effective date of this Order" means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

- |   |   |
|---|---|
| (a) April 8, 1940—<br>Norway and<br>Denmark;                        | (j) June 14, 1941—Continued—<br>Andorra,<br>Austria,<br>Czechoslovakia,<br>Danzig,<br>Finland,<br>Germany,<br>Italy,<br>Liechtenstein,<br>Poland,<br>Portugal,<br>San Marino,<br>Spain,<br>Sweden,<br>Switzerland, and<br>Union of Soviet Socialist Re-<br>publics; |
| (b) May 10, 1940—<br>The Netherlands,<br>Belgium and<br>Luxembourg; | (k) June 14, 1941—<br>China, and<br>Japan;  |
| (c) June 17, 1940—<br>France (including Monaco);                    | (l) June 14, 1941—<br>Thailand;   |
| (d) July 10, 1940—<br>Latvia,<br>Estonia and<br>Lithuania;          | (m) June 14, 1941—<br>Hong Kong.  |
| (e) October 9, 1940—<br>Rumania;                                    |   |
| (f) March 4, 1941—<br>Bulgaria;                                     |   |
| (g) March 13, 1941—<br>Hungary;                                     |   |
| (h) March 24, 1941—<br>Yugoslavia;                                  |   |
| (i) April 28, 1941—<br>Greece;                                      |   |
| (j) June 14, 1941—<br>Albania,                                      |   |

The "effective date of this Order" with respect to any foreign country not designated in this Order shall be deemed to be June 14, 1941.

#### SECTION 4.

A. The Secretary of the Treasury and/or the Attorney General may require by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, from time to time and at any time or times, complete information relative to, any transaction referred to in section 5 (b) of the Act of October 6, 1917 (40 Stat. 415), as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of this Order.

B. Every person engaging in any of the transactions referred to in sections 1 and 2 of this Order shall keep a full record of each such transaction engaged

in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

#### SECTION 5.

A. As used in the first paragraph of section 1 of this Order "transactions [which] involve property in which any foreign country designated in this Order, or any national thereof, has \* \* \* any interest of any nature whatsoever, direct or indirect," shall include, but not by way of limitation (i) any payment or transfer to any such foreign country or national thereof, (ii) any export or withdrawal from the United States to such foreign country, and (iii) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such foreign country.

B. The term "United States" means the United States and any place subject to the jurisdiction thereof, and the term "continental United States" means the states of the United States, the District of Columbia, and the Territory of Alaska; provided, however, that for the purposes of this Order the term "United States" shall not be deemed to include any territory included within the term "foreign country" as defined in paragraph D of this section.

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation, (i) The state and the government thereof on the effective date of this Order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof,

(ii) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise *de jure* or *de facto* sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any territory which on or since the effective date of this Order is controlled or occupied by the military, naval or police forces or other authority of such foreign country,

(iv) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing.

Hong Kong shall be deemed to be a foreign country within the meaning of this subdivision.

E. The term "national" shall include,

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country, at any time on or since the effective date of this Order,

(ii) Any partnership, association, corporation, or other organization, organized under the laws of, or which on or since the effective date of this Order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly, or indirectly, such foreign country and/or one or more nationals thereof as herein defined,

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be

<sup>1</sup> Paragraph B of section 5 amended by Executive Order No. 8998, dated December 26, 1941. The term "United States" does not include the Philippine Islands.

<sup>2</sup> Subdivisions (iii) and (iv) of paragraph D of section 5 substituted in lieu of subdivision (iii), and last sentence of paragraph D added by Executive Order No. 8998, dated December 26, 1941. Former subdivision (iii) became subdivision (iv).

<sup>1</sup> Denmark does not include Iceland.

<sup>2</sup> Subdivision (k) added by Executive Order No. 8832, dated July 26, 1941.

<sup>3</sup> Subdivision (l) added by Executive Order No. 8963, dated December 9, 1941.

<sup>4</sup> Subdivision (m) added by Executive Order No. 8998, dated December 26, 1941.

a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this Order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control or 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this Order or national thereof, as herein defined.

F. The term "banking institution" as used in this Order shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or broker; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution."

G. The term "this Order," as used herein, shall mean "Executive Order No. 8389 of April 10, 1940, as amended."

SECTION 6. Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934. Executive Order No. 6560 of January 15, 1934, and the Regulations of November 12, 1934, are hereby modified in so far as they are inconsistent with the provisions of this Order, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling, or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to this Order; provided, however, that all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of this Order of any orders, regulations, rulings, instructions or licenses shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

SECTION 7. Without limitation as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provision of this Order, the Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this Order and to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate, and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

SECTION 8. Section 5 (b) of the Act of October 6, 1917, as amended, provides in part:

"\* \* \* Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both."

SECTION 9. This Order and any regulations, rulings, licenses or instructions issued hereunder may be amended, modified or revoked at any time.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, June 14, 1941.

### 3. EXECUTIVE ORDER 9095

#### ESTABLISHING THE OFFICE OF ALIEN PROPERTY CUSTODIAN AND DEFINING ITS FUNCTIONS AND DUTIES

By virtue of the authority vested in me by the Constitution, by the Trading with the Enemy Act of October 6, 1917, as amended, by the First War Powers Act, 1941, and as President of the United States, it is hereby ordered as follows:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Order.

2. All power and authority conferred on the President by Sections 3 (a) and 5 (b) of the Trading with the Enemy Act of October 6, 1917, as amended, and by Sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941, except such powers and authority as were delegated to the Secretary of the Treasury by Executive Orders issued prior to February 12, 1942, and to the Board of Governors of the Federal Reserve System by Executive Order No. 8843 of August 9, 1941 (which powers and authority shall continue to be vested in and exercised by the Secretary of the Treasury and the Board of Governors respectively), are hereby delegated to and vested in the Alien Property Custodian. The memorandum of February 12, 1942, delegating to the Secretary of the Treasury certain powers and authority under said sections, is hereby revoked and canceled. Any and all action heretofore taken by the Board of Governors of the Federal Reserve System after February 11, 1942, in pursuance of Executive Order No. 8843 of August 9, 1941, is hereby confirmed and ratified. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

3. Any property, or interest therein, of any foreign country or a national thereof shall vest in the Alien Property Custodian whenever the Alien Property Custodian shall so direct; and, in the case of any property, or interest therein, subject to the control of the Secretary of the Treasury, when the Alien Property Custodian shall notify the Secretary of the Treasury in writing that he has so directed, the Secretary of the Treasury shall release all control of any such property, or interest therein, to the Alien Property Custodian.

4. Any outstanding order, proclamation, regulation, ruling, license, or instruction issued pursuant to, or relating to the administration of, any power or authority vested in the Alien Property Custodian by this Order shall remain in effect unless and until amended or revoked by the Alien Property Custodian.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, March 11, 1942.

### 4. EXECUTIVE ORDER NO. 9193

#### AMENDING EXECUTIVE ORDER NO. 9095 ESTABLISHING THE OFFICE OF ALIEN PROPERTY CUSTODIAN AND DEFINING ITS FUNCTIONS AND DUTIES AND RELATED MATTERS

By virtue of the authority vested in me by the Constitution, by the First War Powers Act, 1941, by the Trading with the Enemy Act of October 6, 1917, as amended, and as President of the United States, it is hereby ordered as follows:

Executive Order No. 9095 of March 11, 1942, is amended to read as follows:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary

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transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Executive Order.

2. The Alien Property Custodian is authorized and empowered to take such action as he deems necessary in the national interest, including, but not limited to, the power to direct, manage, supervise, control or vest, with respect to:

(a) any business enterprise within the United States which is a national of a designated enemy country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by an enemy country or national thereof;

(b) any other business enterprise within the United States which is a national of a foreign country and any property of any nature whatsoever owned or controlled by, payable or deliverable to, held on behalf of or on account of or owing to or which is evidence of ownership or control of any such business enterprise, and any interest of any nature whatsoever in such business enterprise held by a foreign country or national thereof, when it is determined by the Custodian and he has certified to the Secretary of the Treasury that it is necessary in the national interest, with respect to such business enterprise, either (i) to provide for the protection of the property, (ii) to change personnel or supervise the employment policies, (iii) to liquidate, reorganize, or sell, (iv) to direct the management in respect to operations, or (v) to vest;

(c) any other property within the United States owned or controlled by a designated enemy country or national thereof, not including in such other property, however, cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange and securities except to the extent that the Alien Property Custodian determines that such cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange and securities are necessary for the maintenance or safeguarding of other property belonging to the same designated enemy country or the same national thereof and subject to vesting pursuant to section 2 hereof;

(d) any patent, patent application, design patent, design patent application, copyright, copyright application, trademark or trademark application or right related thereto in which any foreign country or national thereof has any interest and any property of any nature whatsoever (including, without limitation, royalties and license fees) payable or held with respect thereto, and any interest of any nature whatsoever held therein by any foreign country or national thereof;

(e) any ship or vessel or interest therein, in which any foreign country or national thereof has an interest; and

(f) any property of any nature whatsoever which is in the process of administration by any person acting under judicial supervision or which is in partition, libel, condemnation or other similar proceedings and which is payable or deliverable to, or claimed by, a designated enemy country or national thereof.

When the Alien Property Custodian determines to exercise any power and authority conferred upon him by this section with respect to any of the foregoing property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Alien Property Custodian.

3. Subject to the provisions of this Executive Order, all powers and authority conferred upon me by sections 3 (a) and 5 (b) of the Trading with the Enemy Act, as amended, are hereby delegated to the Secretary of the Treasury or any person, agency, or instrumentality designated by him; *Provided, however*, That when any property or interest, not belonging to a foreign government or central bank, shall be vested by the Secretary of the Treasury, such property or interest shall be vested in, and dealt with by, the Alien Property Custodian upon the terms directed by the Secretary of the Treasury. Except as otherwise provided herein, this Executive Order shall not be deemed to modify or amend Executive Order No. 8389, as amended, or the President's Proclamation of July 17, 1941, or Executive Order No. 8839, as amended, or the regulations, rulings, licenses and other action taken thereunder, or in connection therewith.

4. Without limitation as to any other powers or authority of the Secretary of

the Treasury or the Alien Property Custodian under any other provision of this Executive Order, the Secretary of the Treasury and the Alien Property Custodian are authorized and empowered, either jointly or severally, to prescribe from time to time, regulations, rulings, and instructions to carry out the purposes of this Executive Order. The Secretary of the Treasury and the Alien Property Custodian each shall make available to the other all information in his files to enable the other to discharge his functions, and shall keep each other currently informed as to investigations being conducted with respect to enemy ownership or control of business enterprises within the United States.

5. The Alien Property Custodian is authorized to issue appropriate regulations governing the service of process or notice upon any person within any designated enemy country or any enemy-occupied territory in connection with any court or administrative action or proceeding within the United States. The Alien Property Custodian also is authorized to take such other and further measures in connection with representing any such person in any such action or proceeding as in his judgment and discretion is or may be in the interest of the United States. If, as a result of any such action or proceeding, any such person obtains, or is determined to have, an interest in any property (including money judgments), such property, less an amount equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding, shall be subject to the provisions of Executive Order No. 8389, as amended, *Provided, however*, That this shall not be deemed to limit the powers of the Alien Property Custodian under section 2 of this Order; and *Provided further*, That the Alien Property Custodian may vest an amount of such property equal to the costs and expenses incurred by the Alien Property Custodian in such action or proceeding.

6. To enable the Alien Property Custodian to carry out his functions under this Executive Order, there are hereby delegated to the Alien Property Custodian or any person, agency, or instrumentality designated by him all powers and authority conferred upon me by section 5(b) of the Trading with the Enemy Act, as amended, including, but not limited to, the power to make such investigations and require such reports as he deems necessary or appropriate to determine whether any enterprise or property should be subject to his jurisdiction and control under this Executive Order. The powers and authority conferred upon the Alien Property Custodian by Executive Order No. 9142 shall be administered by him in conformity with the provisions of this Executive Order.

7. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

8. All records and other property (including office equipment) of the Treasury Department which are used primarily in the administration of powers and duties to be exercised by the Alien Property Custodian, and such personnel as is used primarily in the administration of such powers and duties and which was hired by the Treasury Department after September 1, 1941 (including officers whose chief duties relate to the administration of such powers and duties), as the Secretary of the Treasury and the Alien Property Custodian shall jointly certify for transfer, shall be transferred to the Office of the Alien Property Custodian. In the event of disagreement concerning the transfer of any personnel, records, or property, the determination shall be made by the Director of the Bureau of the Budget, pursuant to the formula here prescribed. Any personnel transferred pursuant to this Executive Order shall be transferred without loss of such Civil Service status or eligibility therefor as they may have.

9. This Executive Order shall not be deemed to modify or amend Executive Order No. 8843 of August 9, 1941, and the regulations, rulings, licenses and other action taken thereunder. Any and all action heretofore taken by the Secretary of the Treasury or the Alien Property Custodian, or by any person, agency, or instrumentality designated by either of them, pursuant to sections 3 (a) and 5 (b) of the Trading with the Enemy Act, as amended, or pursuant to prior Executive Orders, and any and all action heretofore taken by the Board of Governors of the Federal Reserve System pursuant to Executive Order No. 8843 of August 9, 1941, are hereby confirmed and ratified.

10. For the purpose of this Executive Order:

(a) The term "designated enemy country" shall mean any foreign country against which the United States has declared the existence of a state of war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country with which the United States is at war in the future. The term "national" shall

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have the meaning prescribed in section 5 of Executive Order No. 8389, as amended: *Provided, however*, That persons not within designated enemy countries (even though they may be within enemy-occupied countries or areas) shall not be deemed to be nationals of a designated enemy country unless the Alien Property Custodian determines: (i) that such person is controlled by or acting for or on behalf of (including cloaks for) a designated enemy country or a person within such country; or (ii) that such person is a citizen or subject of a designated enemy country and within an enemy-occupied country or area; or (iii) that the national interest of the United States requires that such person be treated as a national of a designated enemy country. For the purpose of this Executive Order any determination by the Alien Property Custodian that any property or interest of any foreign country or national thereof is the property or interest of a designated enemy country or national thereof shall be final and conclusive as to the power of the Alien Property Custodian to exercise any of the power or authority conferred upon me by section 5 (b) of the Trading with the Enemy Act as amended.

(b) The term "business enterprise within the United States" shall mean any individual proprietorship, partnership, corporation or other organization primarily engaged in the conduct of a business within the United States, and any other individual proprietorship, partnership, corporation or other organization to the extent that it has an established office within the United States engaged in the conduct of business within the United States.

11. The Secretary of the Treasury or the Alien Property Custodian, as the case may be, shall, except as otherwise agreed to by the Secretary of State, consult with the Secretary of State before vesting any property or interest pursuant to this Executive Order, and the Secretary of the Treasury shall consult with the Secretary of State before issuing any Order adding any additional foreign countries to section 3 of Executive Order No. 8389, as amended.

12. Any orders, regulations, rulings, instructions, licenses or other actions issued or taken by any person, agency or instrumentality referred to in this Executive Order, shall be final and conclusive as to the power of such person, agency or instrumentality to exercise any of the power or authority conferred upon me by sections 3 (a) and 5 (b) of the Trading with the Enemy Act, as amended; and to the extent necessary and appropriate to enable them to perform their duties and functions hereunder, the Secretary of the Treasury and the Alien Property Custodian shall be deemed to be authorized to exercise severally any and all authority, rights, privileges and powers conferred on the President by sections 3 (a) and 5 (b) of the Trading with the enemy Act of October 6, 1917, as amended, and by sections 301 and 302 of Title III of the First War Powers Act, 1941, approved December 18, 1941. No person affected by any order, regulation, ruling, instruction, license or other action issued or taken by either the Secretary of the Treasury or the Alien Property Custodian shall be entitled to challenge the validity thereof or otherwise excuse his actions, or failure to act, on the ground that pursuant to the provisions of this Executive Order, such order, regulation, ruling, instruction, license or other action was within the jurisdiction of the Alien Property Custodian rather than the Secretary of the Treasury or vice versa.

13. Any regulations, rulings, instructions, licenses, determinations or other actions issued, made or taken by any agency or person referred to in this Executive Order, purporting to be under the provisions of this Executive Order or any other proclamation, order or regulation, issued under sections 3 (a) or 5 (b) of the Trading with the Enemy Act, as amended, shall be conclusively presumed to have been issued, made or taken after appropriate consultation as herein required and after appropriate certification in any case in which a certification is required pursuant to the provisions of this Executive Order.

(Signed) FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, July 6, 1942.

#### 5. EXECUTIVE ORDER NO. 9325

##### PAYMENT OF EXPENSES OF THE OFFICE OF ALIEN PROPERTY CUSTODIAN

By virtue of the authority vested in me by the Constitution and statutes of the United States, particularly by Title III of the First War Powers Act, 1941, it is hereby ordered as follows:

1. Until it is otherwise provided, the Alien Property Custodian is authorized and empowered to pay out of any funds lawfully in his custody or under his control all necessary expenses incurred by the Office of Alien Property Custodian

in carrying out the powers and duties vested in him pursuant to Title III of the First War Powers Act, 1941, and the applicable orders issued thereunder. Such expenses shall be allocated and recovered as provided in section 2 hereof.

2. The Alien Property Custodian is authorized to retain, allocate and recover, as a charge against any specific property or any other property of which the former owner of the specific property was divested, expenses attributable to such specific property with respect to which he has exercised or may hereafter exercise any power heretofore or hereafter conferred upon him. In addition to such expenses, the Alien Property Custodian is authorized to retain, allocate and recover at such time or times as he may deem practicable, as a charge against money or property in his custody or under his control, such amounts as may be necessary in connection with the general administrative expenses of the Office of Alien Property Custodian which have been or may be paid and which are not practicably allocable to a specific property.

3. The power and authority herein granted shall not be limited by the filing of a claim or the institution of a suit relating to any property subject to the authority of the Alien Property Custodian.

4. This order shall not be construed as a limitation upon or in derogation of any powers heretofore granted.

5. The Office of Alien Property Custodian shall submit to the Bureau of the Budget (a) prior to April 30, 1943, an estimate of general administrative expenses for the remainder of the current fiscal year, (b) prior to the end of the current and of each subsequent fiscal year, at such time as may be specified by the Director of the Bureau of the Budget, an estimate of such expenses for the succeeding fiscal year, and (c) any supplemental estimates of such expenses if and as the need arises. After April 30, 1943, no general administrative expenses authorized to be paid pursuant to this order shall be incurred or paid by the Office of Alien Property Custodian beyond the amounts approved by the Director of the Bureau of the Budget upon submissions as above set forth.

(Signed) FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, April 7, 1943.

### EXHIBIT H

#### List of Claims Allowed by the Office of Alien Property Custodian on Property Seized During World War I, Mar. 11, 1942 to June 30, 1943

| Claim No. | Name of claimant   | Nationality of claimant                      | Amount of claim | Date allowed   | Date settled  |
|-----------|--|--|-----------------|----------------|---------------|
| 7054      | Hans E. U. Emmerich  | Czechoslovakia                               | \$29.67         | Sept. 29, 1942 | Nov. 4, 1942  |
| 24168     | Martha Heller  | do   | 28.03           | do             | Apr. 10, 1943 |
| 27872     | Arthur Drack   | do   | 1,577.11        | Aug. 29, 1942  | Oct. 2, 1942  |
| 28193     | Hans E. U. Emmerich  | do   | 523.52          | Sept. 29, 1942 | Nov. 4, 1942  |
| 31363     | Alexander Rode Rode  | Yugoslavia                                   | 792.65          | Dec. 29, 1942  | Mar. 26, 1943 |
| 44282     | Clara Lehman, Edward Weismann, Franz Weismann, and Felix Weil. | United States, except Felix Weil, Argentina. | 134.70          | Dec. 4, 1942   | Mar. 29, 1943 |
| 44283     | Clara Lehman   | United States                                | 200.88          | do             | Do.           |
| 46765     | Grover C. A. Bergdoll  | do   | 151,189.94      | Oct. 29, 1942  | Nov. 4, 1942  |
| 46787     | Home Insurance Co.   | do   | 1,324.54        | Dec. 29, 1942  | Jan. 6, 1943  |
| 46790     | Tillie Shaluk  | do   | 398.99          | Dec. 9, 1942   | Dec. 15, 1942 |
| WC3661    | Collector of Internal Revenue—United States.                   | do   | 40,677.76       | June 9, 1941   | June 30, 1943 |
|           | Total, 11 claims   |  | 235,677.70      |                |               |

\* Total allowed \$49.11, less check for \$14.41 canceled because of death of Edward Weismann.  
 \* Allowed by Executive order for payment of income taxes.

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his father's naturalization. In re Slobody, Sup.1918, 173 N.Y.S. 514.

### 3. Companies entitled to continue

German reinsurance corporation was not entitled to continue to do business after declaration of war under President's proclamation of April 6, 1917, set out as a note under this section, which dealt exclusively with United States branches of German companies, established pursuant to laws of various states, in absence of showing that it had a United States branch or department. Munich Reinsurance Co. v. First Reinsurance Co. of Hartford, C.C.A.Conn.1925, 6 F.2d 742, appeal dismissed 47 S.Ct. 458, 273 U.S. 666, 71 L.Ed. 830.

In action by American pledgees of certificates of marine insurance issued by a British insurance company, the insured goods, belonging to a German pledgor, having been captured by the British in the war against Germany prior to the entry of the United States into the war, the defense that residents of the United States could not recover from a British corporation under a policy insuring property of a German subject against war risk, where the property was seized by the British in warfare, was untenable, as the insurance company had offices and was authorized to do business in the United States, where the contract was made and where the insurance was payable, so that the contract was governed by American and not British laws. Guinness v. Phoenix Assur. Co., Limited, of London, 1921, 188 N.Y.S. 137, 190 App. Div. 495.

### 4. Executed contracts

An executed contract of domestic reinsurance company to take over obligations of a German reinsurance company subsequently accruing under their contracts was not terminated by declaration of war. Munich Reinsurance Co. v. First Reinsurance Co. of Hartford, C.C.A. Conn.1925, 6 F.2d 742, appeal dismissed 47 S.Ct. 458, 273 U.S. 666, 71 L.Ed. 830.

### 5. License—Necessity of

A German reinsurance company was not entitled to continue to do business

after declaration of war under section 1 et seq. of this Appendix, notwithstanding this section, without securing license from the President. Munich Reinsurance Co. v. First Reinsurance Co. of Hartford, C.C.A.Conn.1925, 6 F.2d 742, appeal dismissed 47 S.Ct. 458, 273 U.S. 666, 71 L.Ed. 830.

### 6. — Powers under

A license which was issued by the Secretary of the Treasury pursuant to Executive Order No. 8389, set out as a note under section 95a of Title 12, and which authorized attorney in fact of resident of Lithuania to effect all "transactions" under power of attorney incident to representing the resident of Lithuania in estate proceedings, did not authorize attorney in fact to bring proceeding to compel administrator to render and settle his account under section 7 of this Appendix which permits suits in the case of persons licensed to do business under section 1 et seq. of this Appendix. In re Willer's Estate, 1942, 37 N.Y.S.2d 908, 179 Misc. 189.

A license authorizes an alien enemy insurance company, in liquidation, to maintain actions designed to bring in assets growing out of its business within United States prior to the issuance of such license. Nord Deutsche Ins. Co. of Hamburg, Germany v. John L. Dudley, Jr., Co., 1918, 172 N.Y.S. 154, 104 Misc. 365.

### 7. — Restrictions

Licenses granted to enemy under this section are subject to restrictions imposed by section 1 et seq. of this Appendix. Swiss Nat. Ins. Co. v. Crowley, 1943, 136 F.2d 265, 78 U.S.App.D.C. 1, certiorari denied 64 S.Ct. 70, 320 U.S. 763, 88 L.Ed. 455.

### 8. Time limit

Communication with the enemy relating to routine matters of insurance business was lawful under subsec. (a) of this section for a period of thirty days after passage of section 1 et seq. of this Appendix. U. S. v. Meinel, D.C.N.Y.1919, 256 F. 396.

## § 5. Suspension of provisions relating to ally of enemy; regulation of transactions in foreign exchange of gold or silver, property transfers, vested interests, enforcement and penalties

(a) The President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this Act [sections 1-6, 7-39 and 41-44 of this Appendix] so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section four hereof [section 4(a) of this Appendix], and to perform any act made unlawful without such license in section three hereof [section 3 of this Appendix], and to file and prosecute applications under subsection (b) of section ten hereof [section 10(b) of this Appendix]; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this Act [sections 1-6, 7-39 and 41-44 of this Appendix]; and the President may exercise any power or authority conferred by this Act [said sections] through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section three hereof [section 3 of this Appendix] he shall have authority to order the postponement of the performance of such act for a period not exceeding ninety days, pending investigation of the facts by him.

(b) (1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use,

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transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby con-

ferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

Oct. 6, 1917, c. 106, § 5, 40 Stat. 415; Sept. 24, 1918, c. 176, § 5, 40 Stat. 966; Mar. 9, 1933, c. 1, § 2, 48 Stat. 1; May 7, 1940, c. 185, § 1, 54 Stat. 179; Dec. 18, 1941, c. 593, Title III, § 301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.

#### Historical Note

**Codification.** Words "including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas" immediately preceding the proviso in subsection (b) (3) of this section, have been omitted on the authority of 1946 Proc.No.2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

Subsec. (b) is also set out as section 95a of Title 12, Banks and Banking.

**1941 Amendment.** Subsec. (b). Act Dec. 18, 1941, considerably broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property, added a flexibility of control which enabled the President and the agencies designated by him to cope with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case, and added pars. (2) and (3).

**1940 Amendment.** Subsec. (b). Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

**1933 Amendment.** Subsec. (b). Act Mar. 9, 1933, among other things, extended the President's power to any time of war or national emergency, permitted regulations to be issued by any agency designated by the President, provided for the furnishing under oath of complete information relative to transactions under the subsection and by placing sanctions on violations to the extent of a \$10,000 fine or ten years imprisonment.

**1918 Amendment.** Subsec. (b). Act Sept. 24, 1918, added provisions relating to the hoarding or melting of gold or silver coin or bullion or currency and to the regulation of transactions in bonds or certificates of indebtedness.

**Delegation of Powers.** Delegation of President's powers under subsec. (b) of this section to the Secretary of the Treasury and the Alien Property Custodian; and transfer of Alien Property Custodian's powers to the Attorney General, see Ex.Ord.Nos.9095 and 9783, set out as notes under section 6 of this Appendix.

All powers conferred upon the President by subsec. (b) of this section were delegated to the Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F.R. 1409.

**World War II Alien Property Custodian.** Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of this Appendix.

Regulations; Approval. Act Mar. 9, 1933, c. 1, Tit. I, § 1, 48 Stat. 1, provided that: "The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the Act of October 6, 1917, as amended [section 5(b) of this Appendix], are hereby approved and confirmed."

Executive Orders. Ex.Ord.No.6260, as amended, respecting hoarding, export, and earmarking of gold coin, bullion, or currency and transactions in foreign exchange;

Ex.Ord.No.6560, as amended, respecting transactions in foreign exchange, transfers of credit, and export of coin and currency;

Ex.Ord.No.8389, as amended, regulating transactions in foreign exchange and foreign-owned property and providing for the reporting of all foreign-owned property;

Ex.Ord.No.9747, respecting continuance of functions of Alien Property Custodian and Treasury Department in Philippines;

Ex.Ord.No.9780, respecting diplomatic property of Germany and Japan; and

Ex.Ord.No.10348, continuing in force orders and regulations relating to blocked property,

are set out as notes under section 95a of Title 12, Banks and Banking, and section 6 of this Appendix.

Congressional Comment. For legislative history and purpose of Act Dec. 18, 1941, see 1941 U.S.Code Cong.Service, p. 1029.

#### Cross References

Jurisdiction of courts of Philippine Islands continued, see section 1382 of Title 22, Foreign Relations and Intercourse.  
Prosecutions for hoarding gold, see section 248 of Title 12, Banks and Banking.  
Right to amend, separability of provisions, and ratification of Acts done under Act Mar. 9, 1933, see sections 212 and 213 of Title 12.

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United States ↪34.  
War and National Defense ↪12.

C.J.S. United States § 125.  
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## 1. Constitutionality

Ex.Ord.No.8735, set out as a note under section 95a of Title 12, and 1940 Amendment to subsec (b) of this section, put into effect a valid plan for control of property covered by the regulation, which prohibited any change of title to such property by reason of subsequent appointment of receiver for foreign association which owned credits frozen pursuant thereto. *Propper v. Clark*, N.Y. 1949, 60 S.Ct. 1333, 337 U.S. 472, 93 L.Ed. 1480.

A domestic corporation directed by order of Alien Property Custodian to issue new certificates to Custodian for shares allegedly held by a Swiss bank for a German national could not defeat order by claiming that friendly aliens who claimed interest in stock might not succeed in recovering just compensation for the taking, since Supreme Court was required to assume that the United States would meet its obligations under U.S.C.A.Const. Amend. 5 of just compensation. *Silesian Am. Corp. v. Clark*, N.Y.1947, 68 S.Ct. 179, 332 U.S. 469, 92 L.Ed. 81.

Subsec. (b) of this section authorizing prohibition, by executive order, of transportation of gold coin and placing of restrictions upon transactions in foreign exchange, is not invalid as being arbitrary or capricious. *Perry v. U. S.*, Ct.Cl. 1935, 55 S.Ct. 432, 294 U.S. 330, 79 L.Ed. 912, 95 A.L.R. 1335.

Under authority to deal with gold coin as medium of exchange, Congress could authorize the prohibition, by executive order, of exportation of gold coin and placing of restrictions upon transactions in foreign exchange, and restraint thus imposed on holders of gold coin was incident to limitations inhering in the ownership of the coin and gave holders no right of action. -Id.

The due process clause of U.S.C.A.Const. Amend. 5 does not forbid Congress from making any provision for control of property of a nonenemy alien in times of peace. *Sardino v. Federal Reserve Bank of New York*, C.A.N.Y.1966, 361 F.2d 106,

certiorari denied 87 S.Ct. 203, 335 U.S. 898, 17 L.Ed.2d 130.

Congress had power under section 1 et seq. of this Appendix to make willful violation of authorized administrative requirements requiring license to import property from mainland China a crime. *Heaton v. U. S.*, C.A.Cal.1965, 353 F.2d 288, certiorari denied 86 S.Ct. 1895, 384 U.S. 990, 16 L.Ed.2d 1007.

Congress had the power to sequester and confiscate gold bullion as well as gold coin in its effort to prevent the escape of gold under this section. *British-American Tobacco Co. v. Federal Reserve Bank of New York*, C.C.A.N.Y. 1939, 104 F.2d 652, affirmed 105 F.2d 935, certiorari denied 60 S.Ct. 131, 308 U.S. 600, 84 L.Ed. 602.

Subsec. (b) of this section is valid. *Smith v. Witherow*, C.C.A.Pa.1939, 102 F. 2d 638.

Power of President to declare "national emergency" and prohibit hoarding of gold by executive order can rise no higher than that of Congress which delegated it, and power of Congress must rest on constitutional provisions empowering Congress to borrow money on credit of United States, and to coin money, regulate value thereof, and of foreign coin, and to make all laws necessary and proper for carrying into execution those powers and all other powers vested by Constitution in government of United States or in any department or officer thereof. *U. S. v. Briddle*, D.C.Cal.1962, 212 F.Supp. 534.

Penal provisions of this section are separable from other provisions and therefore, even though this section be deemed invalid, this section would fall alone. *Brownell v. Schering Corp.*, D.C.N.J.1955, 129 F.Supp. 879, affirmed 223 F.2d 624, certiorari denied 76 S.Ct. 849, 351 U.S. 954, 100 L.Ed. 1477.

Provisions of subsec. (b) of this section and the Gold Reserve Act of 1934, section 440 et seq. of Title 31, prohibiting possession of gold bullion without license, are not unconstitutional. *U. S. v. Catamore Jewelry Co.*, D.C.R.I.1954, 124 F.Supp. 846.

Ex.Ord.No. 8389, set out as note under section 95a of Title 12, and provision of subsec. (b) of this section pertaining to regulation of transactions in foreign exchange and in foreign owned property, and Ex.Ord.No. 9095, as amended by Ex.

## Note 3

Ord.No.0193, set out as note under section 6 of this Appendix, pertaining to the office of Alien Property Custodian, when construed as permitting the vesting in Alien Property Custodian of stock of an American owned corporation operating an enemy owned business in a manner indistinguishable from its own operations are constitutional. *Draeger Shipping Co. v. Crowley*, D.C.N.Y.1944, 55 F.Supp. 906.

Statutes, Presidential Proclamations, and Executive Orders relating to banking emergency and ordering closing of many banks were valid. *Hanley v. Corwin*, D.C.N.Y.1936, 15 F.Supp. 396, affirmed 89 F.2d 1008.

This section is valid as an exercise of the powers conferred by U.S.C.A.Const. Art. 1, § 8, cl. 2 and cl. 5, and also as an exercise of the power of eminent domain and it does not unlawfully delegate legislative power. *Campbell v. Chase Nat. Bank of City of New York*, D.C.N.Y.1933, 5 F.Supp. 156, affirmed 71 F.2d 689, 94 A.L.R. 708, affirmed 71 F.2d 671, appeal dismissed 54 S.Ct. 455, 291 U.S. 686, 78 L. Ed. 1073, motion denied 54 S.Ct. 459, 291 U.S. 648, 78 L.Ed. 1043, certiorari denied 55 S.Ct. 108, 293 U.S. 592, 79 L.Ed. 636.

This section authorizing the President to regulate transactions in foreign exchange, property transfers, and the like between residents of foreign countries and persons within the United States, and Ex.Ord.No.8339, as amended by Ex. Ord.No.8785, set out as note under section 95a of Title 12, and the licenses granted thereunder are constitutional. *Alexewicz v. General Aniline & Film Corporation*, 1943, 43 N.Y.S.2d 713, 181 Misc. 181.

This section authorizing government operation, supervision, and control of property of foreign nationals, in order to forestall the possibility that such property might be utilized for purposes hostile to the common defense, is constitutional. -Id.

## 2. Construction

That Congress evidenced no disagreement with presidential interpretation of subsec. (b) of this section reflected in officially published orders was at least some evidence of congressional approval. *Pike v. U. S.*, C.A.Cal.1965, 340 F.2d 487.

Where former section 616 of this Appendix by its express language amended only the first sentence of subsec. (b) of

this section, it would be assumed that Congress intended that all provisions of sections 1-6, 7-39 and 41-44 of this Appendix should be applicable to such amendment so far as it could consistently be done. *Draeger Shipping Co. v. Crowley*, D.C.N.Y.1943, 49 F.Supp. 215.

## 3. — With other laws

Under section 2 of this Appendix the concept of enemy or ally of enemy would be given a scope which would help the 1941 Amendment to subsec. (b) of this section fulfill its mission, and which did not make section 9(a) of this Appendix authorizing suit, stand as a barrier to the recovery of property by foreign interest which had no possible connection with the enemy. *Clark v. Uebersee Finanz-Korporation, A.G.*, App.D.C.1947, 68 S.Ct. 174, 332 U.S. 480, 92 L.Ed. 88.

Construction of subsec. (b) of this section authorizing the President to prohibit hoarding of gold as empowering him to requisition gold, was not inconsistent with section 248(n) of Title 12 authorizing such requisitioning of gold by Secretary of the Treasury, where provision for President's authority was designed to operate against greater emergencies and hence imposed criminal penalties which however, were applicable only to willful violators. *U. S. v. Levy*, C.C.A.N.Y.1943, 137 F.2d 778.

Amendment to subsec. (b) of this section adopted in 1941 providing that property vested in alien property custodian shall be dealt with in the interest of and for the benefit of the United States must prevail over earlier provision of Trading with the Enemy Act, section 12 of this Appendix, providing for sale of securities seized by custodian and deposit of proceeds in United States Treasury. *Halback v. Markham*, D.C.N.J.1952, 106 F.Supp. 475, affirmed 207 F.2d 503, certiorari denied 74 S.Ct. 628, 347 U.S. 933, 98 L.Ed. 1084.

Section 9(a) of this Appendix authorizing a return of property seized under section 1 et seq. of this Appendix to any person not an enemy or an ally of an enemy claiming title in property would apply to property taken by Alien Property Custodian under subsec. (b) of this section relating to taking of property of a foreign "national", as against contention that said section 9(a) applied only to seizures of property of enemies or allies of enemies under section 7(c) of this

Appendix. Draeger Shipping Co. v. Crowley, D.C.N.Y.1943, 49 F.Supp. 215.

#### 4. Repeal

This section authorizing the President to regulate the hoarding of gold bullion, and Ex.Ord.No.6260, set out as note under section 95a of Title 12, prohibiting possession of bullion without a license, were not repealed by the Gold Reserve Act, sections 442 and 443 of Title 31, authorizing the Secretary of Treasury to prescribe the conditions under which gold might be held, without limiting his power to time of war or national emergency. U. S. v. Chabot, C.A.N.Y.1951, 193 F.2d 257.

The passage of the Gold Reserve Act, section 443 of Title 31, providing that any gold withheld in violation of the Act might be condemned and that any person failing to comply with the Act should be subject to penalty equal to twice the value of gold in respect to which such failure occurred did not repeal penalty provision of this section as amended by Act Mar. 9, 1933. Farber v. U. S., C.C.A.Cal.1940, 114 F.2d 5, certiorari denied 61 S.Ct. 173, 311 U.S. 706, 85 L. Ed. 453.

Subsec. (b) of this section as amended by Act of March 9, 1933, c. 1, § 2, authorizing the President to regulate the hoarding, melting or earmarkings of gold coin or bullion, and section 4 of Ex.Ord.No.6260 as amended by Ex.Ord.No.6356, set out as a note under section 95a of Title 12, prohibiting the acquisition of gold coins except under license, but permitting collectors of rare coin to acquire from one another gold coin having recognized special value to collectors, was not amended or repealed by sections 441-443 of Title 31, and regulation of Secretary of Treasury thereunder providing that gold coin of recognized special value to collectors may be acquired without necessity of holding a license therefor. Id.

Criminal penalties provided in Ex.Ord.No.6260, set out as note under section 95a of Title 12, and promulgated pursuant to this section, and prohibiting, with certain exceptions, possession of gold bullion without license, were not repealed by the Gold Reserve Act, section 440 et seq. of Title 31, which imposed only civil penalty for all violations whether willful or otherwise. U. S. v. Catamore Jewelry Co., D.C.R.I.1954, 124 F.Supp. 346.

#### 5. Treaty rights

The joint resolution of Congress prohibiting transfer of property in which Norway or any national thereof has any interest abrogated the treaty between United States and Norway permitting a consular officer, in behalf of his non-resident countrymen, to collect and receipt for their distributive shares derived from estates in process of probate and prohibited payment of the distributive shares derived from the estate of a New York resident whose distributees were residents of Norway, either to the Norwegian nationals themselves or to the consul general of Norway on their behalf. In re Ramberg's Estate, 1940, 20 N.Y.S.2d 619, 174 Misc. 306.

Surrogate's order requiring balance due sole legatee, a Hungarian national, to be deposited with New York City treasurer was not invalid on ground that order contravened treaty between United States and Hungary because bequest was not transferred to Hungarian consular officer, where treaty provision that a consular officer may receipt for funds due nonresident distributees provided he remits such funds to such distributees was impossible of fulfillment in view of this section. In re Braier's Estate, 1953, 111 N.E.2d 424, 305 N.Y. 148.

#### 6. Purpose

The 1941 Amendment to subsec. (b) of this section did not contemplate appropriation of friendly or neutral assets, and it was not intent of Congress that innocent interests be confiscated merely because of guilt of other stockholders. Kaufman v. Societe Internationale Pour Participations Industrielles et Commerciales, S. A., App.D.C.1952, 72 S.Ct. 611, 343 U.S. 156, 96 L.Ed. 853.

Purpose of section 1 et seq. of this Appendix and implementing regulations prohibiting unlicensed importation of any goods from mainland China is to deny Communist China an outlet for its goods in United States market. Heaton v. U. S., C.A.Cal.1965, 353 F.2d 288, certiorari denied 86 S.Ct. 1895, 384 U.S. 990, 16 L.Ed.2d 1007.

This section was intended to reach aliens and is valid as applied to them. British-American Tobacco Co. v. Federal Reserve Bank of New York, C.C.A.N.Y. 1939, 104 F.2d 652, affirmed 105 F.2d 935, certiorari denied 60 S.Ct. 131, 308 U.S. 600, 84 L.Ed. 502.

Purpose of section 1 et seq. of this Appendix is to make it impossible to aid the enemy by forbidding that money or property of any kind held in the United States should reach enemy hands. von Clemm v. Smith, D.C.N.Y.1965, 255 F.Supp. 353, affirmed 383 F.2d 19, certiorari denied 87 S.Ct. 502, 385 U.S. 975, 17 L.Ed.2d 438, rehearing denied 87 S.Ct. 1343, 386 U.S. 1014, 18 L.Ed.2d 451.

This section authorizing the President to regulate transactions in foreign exchange, property transfers, and the like between residents of foreign countries and persons within the United States, was primarily intended to prevent the withdrawal of cash assets from banking institutions when required by public welfare and the primary purpose of Ex.Ord.No.8389, as amended by Ex.Ord.No. 8785, set out as a note under section 95a of Title 12, and licenses exercising the granted authority was to regulate trade in foreign exchange. Alexewicz v. General Aniline & Film Corporation, 1943, 43 N.Y.S.2d 713, 181 Misc. 181.

This section authorizing the President to regulate financial transactions of foreign nationals was intended to complement the authority of the President as commander-in-chief in time of war with all of the broad wartime powers of Congress over property in which foreign nationals have an interest. Id.

#### 7. Law governing

Determination that, under C.P.A. § 977-b [now McKinney's Bus. Corp. Law, §§ 1202, 1203, 1207, 1213], temporary receiver for Austrian association did not obtain title to association's claim against American society, was reasonable and would be accepted by United States Supreme Court for purpose of determining whether the claim was subject to freezing order, Ex.Ord.No.8389 as amended by Ex.Ord.No.8785, set out as a note under section 95a of Title 12. Propper v. Clark, N.Y.1949, 69 S.Ct. 1333, 337 U.S. 472, 93 L.Ed. 1450.

State court decision is not controlling on a federal court construing federal regulations issued under subsec. (b) of this section. Bernstein v. N. V. Nederlandsche-Amerikaansche Stoomvaart-Maatschappij, C.A.N.Y.1949, 173 F.2d 71, amended on other grounds 210 F.2d 375.

Ex.Ord.No.8389 set out as note under section 95a of Title 12 freezing assets

of New York agency of Japanese bank did not purport to "occupy the field" in such manner and to such extent as to preclude state of New York from liquidating the New York agency pursuant to its banking law. Suomen Pankki v. Bell, Sup.1948, 80 N.Y.S.2d 821.

#### 8. Effective date

Section 1 et seq. of this Appendix automatically went into effect again at outbreak of Second World War. Markham v. Cabell, N.Y.1945, 66 S.Ct. 193, 326 U.S. 404, 90 L.Ed. 165.

A proclamation removing restrictions on trade between the disloyal and loyal states was effective when signed, sealed, and deposited in the State Department, although not published in newspapers until several days thereafter. Lapeyre v. U. S., Ct.Cl.1873, 84 U.S. 191, 17 Wall. 191, 21 L.Ed. 600.

Instructions of the President, in time of war, were not, as laws were, in force without notice to the individuals. The Mary and Susan, N.Y.1816, 14 U.S. 46, 1 Wheat. 46, 4 L.Ed. 32.

Critical date for determining whether property is enemy-held is date of declaration of war. Uebersee Finanz-Korporation. A. G. v. Brownell, D.C.D.C.1955, 133 F.Supp. 615, affirmed 244 F.2d 789, 100 U.S.App.D.C. 341, certiorari denied 78 S. Ct. 141, 355 U.S. 878, 2 L.Ed.2d 108.

Trade laws were considered as beginning to operate in the respective collection districts from the time they were received from the proper department by the collector, unless previous notice of them had been brought home to the knowledge of the party charged with violating them. The Cotton Planter, C.C. N.Y.1810, Fed.Cas.No.3,270.

#### 9. Retroactive effect

In action against bank in aid of attachment procured against an Italian firm, executive order freezing certain foreign funds in the United States could not be relied on as a defense where sheriff made levy under warrant of attachment on November 29, 1940, the restraint against Italy and its nationals became effective on June 14, 1941, and the order by its terms was not retroactive. Brown v. J. P. Morgan & Co., 1941, 31 N.Y.S.2d 323, 177 Misc. 626, reversed on other grounds 40 N.Y.S.2d 229, 265 App.Div. 631.

## 10. Definitions—Credits

In considering credits as property subject to vesting, court gives "credit" its ordinary meaning of the obligation due on accounting between parties to transactions. *Propper v. Clark*, N.Y.1949, 69 S.Ct. 1333, 337 U.S. 472, 93 L.Ed. 1480.

## 11. — Evidence of indebtedness

Checks issued by one French resident to another French resident in payment for exchange and letters directing drawee-bank to hold sums in escrow, sufficient to pay such checks on presentation were "evidence of indebtedness" within meaning of Executive Order prohibiting unlicensed transfer of enemy alien's property. In re *De Gheest's Estate*, 1950, 232 S.W.2d 378, 360 Mo. 1002.

## 12. National emergencies

Economic "national emergency" prerequisite to validity of 1933 executive order of the President declaring "national emergency" and prohibiting hoarding of gold no longer exists in 1962, and indictment charging defendants with holding gold bullion in violation of that executive order and statute was required to be dismissed. *U. S. v. Bridgell*, D.C.Cal.1962, 212 F.Supp. 534.

## 13. Powers—Attorney General

Attorney General succeeds to all rights in property vested in him under section 1 et seq. of this Appendix. *Societe Internationale v. Kennedy*, D.C.D.C.1964, 231 F.Supp. 132.

Under Ex.Ord.No.9142, set out as a note under section 6 of this Appendix, Ex.Ord. No.8136, and Ex.Ord.No.9193, and section 1 et seq. of this Appendix, giving alien property custodian broad powers to deal with enemy property vested in custodian, both he and Attorney General had authority to settle on behalf of the United States a suit for return of stock in a New York corporation vested in custodian as property of an enemy corporation by compensating claimants for ascertained non-enemy interest in such stock. *Halback v. Markham*, D.C.N.J.1952, 106 F.Supp. 475, affirmed 207 F.2d 503, certiorari denied 74 S.Ct. 628, 347 U.S. 933, 98 L.Ed. 1084.

Attorney General, as successor to the Alien Property Custodian, by order of the Custodian vesting in himself all right, title and interest of certain citizens of Germany to estate of testatrix

who died April 1, 1945, acquired all right, title and interest and claim of any kind or character whatever of the German legatees to the legacy in question. *Clark v. Edmunds*, D.C.Va.1947, 73 F.Supp. 390.

Where trustee allegedly made payment to Japanese beneficiary of *inter vivos* trust created by Japanese national in violation of section 1 et seq. of this Appendix, Attorney General, as successor of Alien Property Custodian, subsequently becoming entitled to all beneficial interests of such trust by virtue of issuing vesting order, could only obtain relief for such prior payment of income from such sections themselves, which contained a specific penalty for violation thereof. In re *Masayo Huga's Trust*, Sup.1956, 155 N.Y.S.2d 987.

Where right, title and interest of all parties beneficially interested in a trust had been vested by Attorney General, as successor to Alien Property Custodian, Attorney General was entitled to the principal. In re *Sandhagen's Estate*, 1951, 107 N.Y.S.2d 73, 200 Misc. 847.

## 14. — Custodian

Under section 1 et seq. of this Appendix, the Alien Property Custodian, not only has power to vest enemy property in the United States and summarily reduce it to possession, but the custodian may resort to summary proceedings in the courts to reduce to possession property which he has determined to be enemy owned, and such proceedings do not leave open for adjudication correctness of custodian's determination of enemy ownership, or validity of claims of any nonenemy against the vested property. *Rogers v. Chemical Corn Exchange Bank*, D.C.N.Y. 1960, 180 F.Supp. 946.

Alien Property Custodian, on delegation to him of authority by President under section 1 et seq. of this Appendix, could supervise use of patents by New Jersey corporation, whose stockholders were German nationals, and sale of corporation's stock. *Brownell v. Schering Corp.*, D.C.N.J.1955, 129 F.Supp. 879, affirmed 228 F.2d 624, certiorari denied 76 S.Ct. 849, 351 U.S. 954, 100 L.Ed. 1477.

Alien Property Custodian had right by his directive under section 1 et seq., of this Appendix to compel New Jersey corporation, whose stock was owned by German nationals, to execute agreement

to assign old patents of corporation to Alien Property Custodian for use of the government and its citizens and to license new patents. *Id.*

The Alien Property Custodian is an official of the United States acting in the national interest, and his authority stems from the constitutional grant of power to Congress to declare war, grant letters of Marque and Reprisal, and make rules concerning captures on land and water, and exists by virtue of subsec. (b) of this section authorizing appointment by the President and executive order pursuant thereto and section 7(c) of this Appendix defining Custodian's powers. *The Pietro Campanella*, D.C.Md.1942, 47 F.Supp. 374.

## 15. — President

Where amendment to subsec. (b) of this section granted the President the power to vest in an agency designated by him any property or interest of any foreign country or national thereof, the property of all foreign interests was placed within reach of the vesting power not to appropriate friendly or neutral assets, but to reach enemy interests which masqueraded under those innocent fronts. *Clark v. Uebersee Finanz-Korporation, A. G.*, App.D.C.1947, 68 S.Ct. 174, 332 U.S. 480, 92 L.Ed. 88.

Subsec. (b) of this section conferring regulatory authority upon President with respect to gold did not limit authority to banking emergency of 1933, and executive order remained effective through subsequently-proclaimed national emergencies. *Pike v. U. S.*, C.A.Cal.1965, 340 F.2d 487.

Under this section the President had power to require the delivery of gold coin, gold bullion, and gold certificates to a Federal Reserve Bank or a branch or agency thereof or to any member bank of the Federal Reserve System on or before May 1, 1933. *British-American Tobacco Co., Limited v. Federal Reserve Bank of New York*, C.C.A.N.Y.1939, 104 F.2d 652, affirmed 105 F.2d 935, certiorari denied 60 S.Ct. 131, 308 U.S. 600, 84 L.Ed. 502.

Under this section empowering the President to regulate or prohibit any importation involving any property in which a foreign country or a national thereof has any interest by any person subject to jurisdiction of the United States, President's power to vest extends to all property, whether that of a friendly or an

unfriendly enemy nation or national, and hence power to prohibit trading activities is not circumscribed to "enemy tainted" transactions. *U. S. v. Broverman*, D.C.N.Y.1950, 180 F.Supp. 631.

Under subsec. (b) (1) (B) of this section dealing with regulation by the President of transactions in foreign exchange of gold and silver, the scope of the investigatory and regulatory power is wider than the vesting power, since the investigatory and regulatory power seem to cover any property in which a foreign national has any interest, while the vesting power covers only any property or interest of any foreign national. *Clark v. Edmunds*, D.C.Va.1947, 73 F.Supp. 390.

Section 1 et seq. of this Appendix is strictly a war measure and grants the President wide authority to sequester, administer and dispose of alien enemy property in the United States and to proceed summarily and promptly to that end, and when properly invoked, the judicial power should function in like manner. *Crowley v. Allen*, D.C.Cal.1943, 52 F.Supp. 850, reversed 147 F.2d 136, reversed 156 F.2d 653, reversed 66 S.Ct. 206, 328 U.S. 490, 90 L.Ed. 256, affirmed in part, reversed in part on other grounds 67 S.Ct. 1431, 331 U.S. 503, 91 L.Ed. 1633, 170 A.L.R. 953.

Under this section authorizing the President to regulate financial transactions of foreign nationals, the older method of controlling financial transactions of foreign nationals continued under the system then utilized and the President or his representative was given complete power with respect to all transactions of foreign nationals. *Alexewicz v. General Aniline & Film Corporation*, 1943, 43 N.Y.S.2d 713, 181 Misc. 181.

## 16. — Secretary of the Treasury

Secretary of Treasury's order freezing bank deposits of Cuban nationals is constitutional as exercise of power of our government to compensate our own citizens out of foreign assets in this country for wrongs done them by foreign government abroad. *Sardino v. Federal Reserve Bank of New York*, C.A.N.Y.1966, 361 F.2d 106, certiorari denied 87 S.Ct. 203, 385 U.S. 898, 17 L.Ed.2d 130.

In suit to require the release of cassia and permit its entry into the United States for consumption where under this section, cassia, traditionally imported

from China, was excluded from the United States unless it originated in certain countries, where the evidence did not establish that defendants were arbitrary in setting up a procedure for determining country of origin of the cassia, and defendants were within area of reasonable discussion under the Foreign Assets Control Regulations the court could not direct the entry of the cassia. *Landes v. Humphrey*, 1957, 246 F.2d 703, 101 U.S.App.D.C. 16.

The Secretary of the Treasury, to whom President delegated his power, under this section, to control financial transactions with foreign countries in times of war or national emergency, in 1942, after declarations of national emergency and war, had power to promulgate Foreign Assets Control Regulations in 1950 after proclamation of national emergency because of Korean War, even if original delegation of such power was limited to World War II emergency, which was not declared terminated until after declaration of Korean emergency and promulgation of such regulations. *U. S. v. China Daily News*, C.A. N.Y.1955, 224 F.2d 670, certiorari denied 76 S.Ct. 138, 350 U.S. 885, 100 L.Ed. 780.

In action involving adverse claims to ownership of two custody accounts held by bank, wherein it appeared that accounts had been blocked pursuant to foreign assets control regulations of Treasury Department in accordance with provisions of section 1 et seq. of this Appendix, court could not direct the entry of any judgment in absence of a treasury license permitting entry of such judgment. *Chase Manhattan Bank v. United China Syndicate, Limited*, D.C.N.Y. 1960, 180 F.Supp. 848.

The Secretary of the Treasury could properly make funds deposited in the treasury by alien property custodian available for payment of compensation for ascertained non-enemy interest in securities in settlement of suit for return of such securities which had been vested in alien property custodian as the property of any enemy corporation. *Halback v. Markham*, D.C.N.J.1952, 106 F.Supp. 475. Affirmed 207 F.2d 503, certiorari denied 74 S.Ct. 628, 347 U.S. 933, 98 L.Ed. 1084.

Under Ex.Ord.No.8339 as amended, set out as note under section 95a of Title 12, prohibiting transactions with enemy nationals, etc., except as specifically autho-

riized by Secretary of Treasury, Secretary of Treasury had authority to issue general ruling prohibiting any person from engaging directly or indirectly in any trade or communication with enemy national, unless authorized by license expressly referring to such general ruling. *Blank v. Clark*, D.C.Pa.1943, 79 F.Supp. 373.

#### 17. Delegation of power—Congressional approval

The retroactive approval and confirmation by Congress of Ex.Ord.No.8339, set out under section 95a of Title 12, prohibiting, except under license issued by Secretary of Treasury, transactions in foreign exchange involving property of Norway or Denmark or any national of either after those countries were invaded by Germany, removed all question of improper delegation of power with regard to such order and provided an adequate standard for President's exercise of discretion in subsequent amending order, Ex.Ord.No.8405, set out under section 95a of Title 12, which extended same prohibition to Holland, Belgium and Luxembourg and their nationals. *U. S. v. Von Clemm*, C.C.A.N.Y.1943, 136 F.2d 968.

The retroactive approval and confirmation by Congress of Ex.Ord.No.8389 as amended, §§ 5, subd. E (iii, iv), 7 set out as note under section 95a of Title 12, giving the Secretary of the Treasury full power to determine whether a person is a "national", within meaning of subsec. (b) of this section, and giving the Secretary power to "block" accounts of nationals, removes all question of improper delegation of power with reference thereto. *Hartmann v. Federal Reserve Bank of Philadelphia*, D.C.Pa.1944, 55 F.Supp. 801.

#### 18. — Legislative power

Provision of subsec. (b) (1) of this section which is the authority for the Cuban Assets Control Regulations is not unconstitutional delegation of legislative powers. *Sardino v. Federal Reserve Bank of New York*, C.A.N.Y.1966, 361 F.2d 106, certiorari denied 87 S.Ct. 203, 385 U.S. 899, 17 L.Ed.2d 130.

Subsec. (b) (1) (E) of this section authorizing President to compel transfer of any property, subject to jurisdiction of United States, in which any foreign country or national thereof has an interest, is not an improper delegation of

power even though a President in turn delegated his power to the Alien Property Custodian with authority to vest in himself property of a friendly alien when necessary in the national interest. *Silesian-American Corp. v. Markham*, C.C.A. N.Y.1946, 156 F.2d 793, affirmed 68 S.Ct. 79, 332 U.S. 489, 92 L.Ed. 88.

#### 19. — Executive power

In seizing property believed to be enemy owned under this section, a personal determination by the President of enemy ownership is not required, but he may act through the Custodian, and a determination by the latter is in effect the act of the President. *McGrath v. Manufacturers Trust Co.*, N.Y.1949, 70 S.Ct. 4, 338 U.S. 241, 94 L.Ed. 31.

Executive Order of Dec. 3, 1918, which read in part, "I hereby vest in Frank L. Polk all power and authority conferred upon the President by the provisions of section 12" of this Appendix was not void on theory that power to determine how enemy property should be sold could not be delegated, in view of subsec. (a) of this section. *U. S. v. Chemical Foundation, Del.*1928, 47 S.Ct. 1, 272 U.S. 1, 71 L.Ed. 131.

Executive Order of Dec. 3, 1918 was not void on theory that to "vest" power in another is not to "act through" him, as President was authorized to do by this section. Id.

The President's delegation of his power under subsec. (b) (1) of this section to issue regulations to the Secretary of the Treasury and the latter's delegation of administration of the regulations to the Office of Foreign Assets Control are not in violation of the Constitution. *Sardino v. Federal Reserve Bank of New York*, C.A.N.Y.1966, 361 F.2d 106, certiorari denied 87 S.Ct. 203, 385 U.S. 898, 17 L.Ed.2d 130.

#### 20. Regulations

Treasury regulation providing that except as specifically authorized by Secretary of Treasury, no "persons subject to jurisdiction of United States" may purchase or deal in or engage in any transaction with respect to any merchandise outside United States was not applicable in libel by United States for forfeiture of art objects imported into United States without procuring import license, where both claimant and his agent, who brought objects into United States from

Hong Kong, were citizens and residents of Hong Kong, since neither claimant nor his agent was a "person subject to jurisdiction of United States." *Jen Dao Chen v. U. S.*, C.A.Cal.1967, 385 F.2d 939.

Treasury regulation providing that, except as specifically authorized by Secretary of the Treasury, no person subject to jurisdiction of United States may purchase or otherwise deal in or engage in any transaction with respect to any merchandise outside of United States is highly penal and, as such, falls within general rule requiring strict construction. Id.

During period of national emergency proclaimed by President, subsec. (b) (1) of this section, authorized the Cuban Assets Control Regulations prohibiting transfers outside United States of property owned by Cuban nationals except with specific authorization. *Sardino v. Federal Reserve Bank of New York*, C.A. N.Y.1966, 361 F.2d 106, certiorari denied 87 S.Ct. 203, 385 U.S. 898, 17 L.Ed.2d 130.

The provision of subsec. (b) (1) of this section authorizing executive regulation of property owned by foreign nationals in time of national emergency, is not limited in application to economic emergencies. Id.

Regulations prohibiting importation of property from mainland China without license were applicable to property that left mainland China before effective date of regulations. *Heaton v. U. S.*, C.A.Cal. 1965, 353 F.2d 258, certiorari denied 86 S.Ct. 1895, 384 U.S. 990, 16 L.Ed.2d 1007.

Regulations requiring license to import property from mainland China are not arbitrary and unreasonable because they provide that personal affidavits will not be accepted as sufficient proof that goods were outside mainland China before effective date of regulations. Id.

Regulations prohibiting unlicensed importation of any goods which originated in mainland China do not exceed authority of this section which authorizes exclusion only of goods in which foreign nation or national has an "interest," since Communist China has an "interest" in any goods which are produced in mainland China, and which enter channels of foreign trade after effective date of regulations. Id.

Under section 248(n) of Title 12, Secretary had power to promulgate regulation providing for the purchase or retention

of gold coin or bullion under a license for purposes specified in Executive Order. *British-American Tobacco Co. v. Federal Reserve Bank of New York, C.C. A.N.Y.1939, 104 F.2d 652, affirmed 105 F.2d 935, certiorari denied 60 S.Ct. 131, 208 U.S. 600, 84 L.Ed. 502.*

Rules 2(a) and 2(c), promulgated by the President on February 26, 1918, under the authority of subsec. (a) of this section, providing that a demand by the Alien Property Custodian would effect a transfer of corporate stock owned by an alien enemy and that such a demand would forthwith vest in such officer title to such stock, were both reasonable and effective. *Garvan v. Marconi Wireless Tel. Co. of America, D.C.N.J.1921, 275 F.486.*

Withholding of import license is not arbitrary, capricious or unreasonable if country of origin cannot be satisfactorily established before regulatory agency authorized to issue license, so long as it has been done pursuant to prescribed regulations and within purpose of this section. *Greenblatt v. Dillon, D.C.Mo. 1964, 238 F.Supp. 267.*

Under regulation prohibiting, except as specifically authorized, any person to import hog bristles from China (except Formosa) or North Korea, merchandise which is outside the United States and which has its origin in China is property in which a foreign country or national thereof has any interest within meaning of this section empowering President to regulate or prohibit any importation involving any property in which any foreign country or a national thereof has any interest by any person subject to the jurisdiction of United States, and hence regulation is valid, and under circumstances it was not required that indictment specify in precise statutory language that China or Chinese national had an interest in the hog bristles imported by defendant. *U. S. v. Broverman, D.C.N.Y. 1959, 130 F.Supp. 631.*

Under this section empowering President to regulate or prohibit any importation involving property in which any foreign country or national thereof has any interest, specific regulation prohibiting, except as specifically authorized, importation of Chinese hog bristles governs with respect to Chinese products over general regulation authorizing certain transactions incident to trade with members of authorized trade territory. *Id.*

Under regulation providing that except as authorized by government license, no person subject to jurisdiction of the United States could purchase, transport, import, or otherwise "deal in" or "engage in" any transaction with respect to merchandise having China as its origin, partial financing of purchases of Chinese hog bristles from a company in Amsterdam, Holland, without authorization came within prohibition of regulation and quoted phrases were not limited to the significance of a quality of possession or right in merchandise involved. *U. S. v. Wagman, D.C.N.Y.1958, 168 F.Supp. 248.*

Subsec. (b) of this section providing that during time of war or during any other period of national emergency declared by the President, the President may by means of instructions, licenses, and otherwise, investigate, regulate, direct and compel, nullify, void, present or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or nationals thereof has any interest, authorizes regulation or prohibition of transactions involving property of foreign nationals with any foreign country or its nationals, and regulation prohibiting trade in Chinese hog bristles was valid. *Id.*

Regulations which were promulgated under this section and which prohibit dealing in any merchandise the country of origin of which is China are valid and Secretary of Treasury had power to proclaim them. *U. S. v. Welshaupt, D.C. N.Y.1958, 167 F.Supp. 211.*

Intent of regulations promulgated pursuant to this section and prohibiting dealing in more than 100 articles was to prevent giving of economic aid and comfort to Communist China by denying her nationals, except upon issuance of license therefor, an American market for their goods, regardless of nature or character thereof, and dealing in and importing postage stamps, the country of origin of which was China, was a violation of this section. *Id.*

Postage stamps, the country of origin of which was Communist China, were "merchandise" within regulations which

were promulgated pursuant to this section and which prohibit importation of merchandise from Communist China. *Id.*

#### 21. — Instructions

Advice by officials of the Department of Justice that organization, which was a national of enemy country, should disband and turn over its activities to a new committee did not constitute "instructions" within Ex.Ord.No.8389, set out as a note under section 95a of Title 12 which conditions transfers of enemy national's property upon instructions from Secretary of the Treasury. *Schumacher v. Brownell, C.A.Pa.1954, 210 F.2d 14.*

#### 22. Licenses—Generally

Where Ex.Ord.No.8389, set out as a note under section 95a of Title 12, blocking all transfers of evidence of debt or interests in property of Japanese nationals, unless permitted by license from Secretary of Treasury, prevented unlicensed attachment by creditor of Japanese national from creating such interest in blocked funds as would entitle creditor to maintain suit for return of an interest in vested property, creditor was relegated to statutory liquidation procedures by which debt claims might be allowed and respective priorities of creditors established. *Orvis v. Brownell, N.Y.1953, 73 S.Ct. 596, 345 U.S. 183, 97 L. Ed. 938.*

Under earlier laws prohibiting commercial intercourse with the states in insurrection the President could in his discretion license trade. *Hamilton v. Dillon, Tenn.1875, 88 U.S. 73, 21 Wall. 73, 22 L. Ed. 528.* See, also, *U. S. v. One Hundred Barrels of Cement, D.C.Mo.1862, Fed.Cas. No.15,945; U. S. v. One Hundred and Twenty-Nine Packages, D.C.Mo.1862, Fed.Cas.No.15,041; Hughes v. Oaks, 1868, 59 P. 32, 9 P.F. Smith 32.*

The refusal of a license to Cuban residing in Havana to transfer funds from his savings account in New York bank was justified as a means to withhold dollar resources from a government seeking to create a base for activities inimical to our national welfare. *Sardino v. Federal Reserve Bank of New York, C.A.N.Y.1966, 361 F.2d 106, certiorari denied 87 S.Ct. 203, 385 U.S. 898, 17 L.Ed.2d 130.*

Where Japanese government sought permission to establish funds in American branch of Japanese bank and gave formal assurance to United States that it

was exercising official governmental control over every transaction involved, and Secretary of Treasury granted such license, bankrupt Japanese corporation was not entitled to balance of such fund on theory of resulting trust, even if it supplied consideration for establishment of such fund. *Carr v. Yokohama Specie Bank, Limited, of San Francisco, C.A. Cal.1953, 200 F.2d 251.*

Test customs officers applied to determine plaintiff's right to import license for antique Chinese furniture bought in Singapore, requiring detailed identification and clear and complete proof of location of merchandise and its ownership since 1950, over and above affidavits from processors, sellers or shippers in third country, was not arbitrary, capricious or unreasonable. *Greenblatt v. Dillon, D.C.Mo.1964, 238 F.Supp. 267.*

A license, which was issued by Office of Alien Property under section 1 et seq. of this Appendix and General Regulation, and which authorized bank to pay funds of Hungarian corporation to sole stockholders and officers of corporation, was not a determination of title to funds, but was merely a condition precedent to a transfer of the funds. *Kuerschner & Rauchwarenfabrik, A. G. v. New York Trust Co., D.C.N.Y.1954, 126 F.Supp. 684.*

Fact that license from Treasury Department under subsec. (b) of this section validating appointment of receiver of German corporation, who had brought action in United States against Dutch corporation for conversion, expressly prohibited receiver from exercising power given to a permanent receiver by Civil Practice Act, § 977-b [now McKinney's Bus.Corp.Law, §§ 1202, 1203, 1207, 1218] did not make appointment of receiver invalid. *Bernstein v. N. V. Nederlandsche-Amerikaansche Stoomvaart-Maatschappij, D.C.N.Y.1963, 117 F. Supp. 898, mandamus denied 210 F.2d 376.*

Under Ex.Ord.No.8389 as amended, set out as note under section 95a of Title 12, prohibiting transactions with enemy nationals, etc., except as specifically authorized by Secretary of Treasury, Secretary of Treasury had authority to issue general ruling prohibiting any person from engaging directly or indirectly in any trade or communication with enemy national, unless authorized by license expressly referring to such general ruling. *Blank v. Clark, D.C.Pa.1948, 79 F.Supp. 373.*

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A German national entitled as next of kin to inherit property of a resident and citizen of Pennsylvania who died intestate in 1945 had an interest in such property as of death of decedent so that attorney claiming an interest in such property as assignee of German national entitled thereto could claim no benefit under Treasury General License effective as of December 31, 1946, granting a general license to make transfers previously forbidden, though Pennsylvania Orphans' Court did not amend its adjudication so as to include attorney's assignor as one of the heirs entitled to share in estate until after effective date of General License. *Id.*

Under this section a foreign national may be conditionally licensed to do business in the United States. *Alexewicz v. General Aniline & Film Corporation*, 1943, 43 N.Y.S.2d 713, 181 Misc. 181.

Subsec. (a) of this section, as to license to do business as provided in sections 3, 4, and 10 of this Appendix does not, in view of section 7 of this Appendix, authorize a license to an ally of enemy to sue on a note given before the commencement of the war. *Hungarian General Credit Bank v. Titus*, 1918, 169 N.Y. S. 926, 182 App.Div. 826.

23. — Necessity for

Ex.Ord. No. 8389, set out as a note under section 95a of Title 12, blocking all transfers of evidence of debt or interests in property of Japanese nationals, unless permitted by license from Secretary of Treasury, in conjunction with Treasury ruling to effect that such prohibition included creation of lien, prevented creditor of Japanese national from thereafter acquiring, by unlicensed attachment of funds in hands of third party to credit of Japanese national, an interest, right or title in the funds which would support a claim against the Alien Property Custodian, or his successor, for return of an interest in vested property. *Orvis v. Brownell*, N.Y.1953, 73 S.Ct. 596, 345 U.S. 183, 97 L.Ed. 938.

Dealings with Hong Kong Communist controlled bank, soliciting funds for Communist China, by New York newspaper publisher and editor extending credit to such banks and receiving payments from them for advertising in such newspaper, were not licensed under former Foreign Assets Control Regulations, so as to absolve publisher and editor

from criminal liability for violation of this section, in view of provisions in such regulations specifically excluding transactions by or on behalf of designated nationals not within authorized Hong Kong trade territory. *U. S. v. China Daily News*, C.A.N.Y.1955, 224 F.2d 670, certiorari denied 76 S.Ct. 138, 350 U.S. 885, 100 L.Ed. 780.

Treasury ruling that unlicensed transfer of property in blocked accounts after effective date of Ex.Ord.No.8389, set out as a note under section 95a of Title 12, is null and void, and defining transfer to include attachment, was within scope of such Order blocking debts owing to Japanese nationals pursuant to subsec. (b) of this section, and sections 9(a) and 34(f,1) of this Appendix. *Orvis v. McGrath*, C.A.N.Y.1952, 198 F.2d 708, affirmed 73 S.Ct. 596, 345 U.S. 183, 97 L. Ed. 938.

Under subsec. (b) of this section and regulations issued pursuant thereto, appointment of state receiver for alien corporation and his assertion in federal District Court of claim to blocked property was required to be validated by license of Treasury Department, if receiver desired to pursue claim on behalf of alien corporation to the blocked property. *Bernstein v. N. V. Nederlandsche-Amerikaansche Stoomvaart-Maatschappij*, C.A. N.Y.1949, 173 F.2d 71.

Transactions given default status by state law are recognized, subject to custodial rights, notwithstanding absence of license required by section 1 et seq. of this Appendix. *Albert v. McGrath*, D.C. Cal.1952, 104 F.Supp. 891, vacated on other grounds 219 F.2d 602.

An unlicensed transaction, in violation of order freezing Japanese accounts in American bank offices during war, can be given no legal effect. *Carr v. Yokohama Specie Bank, Limited*, of San Francisco, D.C.Cal.1951, 99 F.Supp. 4, affirmed 200 F.2d 251.

Where American government during time of war froze Japanese banking accounts, and money was lawfully in America only if party interested therein obtained license, claim of trustee, in bankruptcy of unlicensed Japanese shipping company that such company was beneficial owner of money deposited in special account in American office of Japanese bank by licensed Japanese gov-

ernment, would not be recognized by court. *Id.*

Where foreign corporation filed its libel in personam with clause of foreign attachment in a cause of general average against German steamship company, and on July 12, 1941 a steamship belonging to such company was attached, the plaintiff had a valid attachment lien on such steamship notwithstanding that no license authorizing such attachment was secured from the Secretary of the Treasury. *Sun Ins. Office v. Arauca Fund*, D.C.Fla.1949, 84 F.Supp. 516.

Transaction, though conducted through attorney in France whereby a German national by means of instruments executed in Germany granted a power of attorney and assigned to attorney a part of assignor's interest in estate of resident and citizen of Pennsylvania who died intestate in 1945 was prohibited by general ruling of Secretary of Treasury, prohibiting unlicensed trade or communication with enemy national, and transferred no interest to attorney, unless otherwise licensed. *Blank v. Clark*, D.C.Pa.1948, 79 F.Supp. 373.

A deed by Japanese national and resident of July 25, 1941, not recorded until July 26, 1941, at 10:30 a. m., Hawaiian Standard Time, conveyed no interest to grantee where attempted transfer was unlicensed and belonged to such Japanese national and resident at the time of the vesting by the Alien Property Custodian. *Miyuki Okihara v. Clark*, D.C. Hawaii 1947, 71 F.Supp. 319.

Holder of overdue notes issued by corporation owned mainly by enemy aliens and supervised by Office of Alien Property was entitled to pursue his claim to judgment against corporation although holder could not interfere without federal license, with property of corporation so long as its supervision was in Office of Alien Property. *Brown v. Hugo Stinnes Corp.*, 1933, 121 N.Y.S.2d 905, 282 App.Div. 186, affirmed 118 N.E.2d 603, 306 N.Y. 789, motion for amendment denied 118 N.E.2d 604, 306 N.Y. 791.

Where residuary legatee, a German national residing in Russian Zone, executed an instrument purporting to assign all legatee's interest in New York estate to two United States residents, and the assignment was not licensed by the Treasury Department, the purported assign-

ment was ineffectual to avoid vesting of the legatee's interest in the Attorney General as successor to the Alien Property Custodian under provisions of section 1 et seq. of this Appendix. In re *Habekost's Estate*, 1952, 118 N.Y.S.2d 315, 203 Misc. 363.

Issuance of attachment or levy on blocked property was not barred by section 1 et seq. of this Appendix, or by executive order, but transfer of such property under such attachment could be made only upon license. *McCloskey v. Bache*, Sup.1949, 88 N.Y.S.2d 196.

A French national's transfer, by book entries, of securities in possession of New York agency of international bank, to bank's head office in London, without United States Treasury license, was void under Ex.Ord.No.8389, as amended, set out as note under section 95a of Title 12, freezing foreign funds in United States, and receiver, appointed for the French national in supplementary proceedings brought by judgment creditor of French national, had title to and was entitled to possession of such securities on obtaining the necessary license. *Patino v. Patino*, 1945, 59 N.Y.S.2d 58, 186 Misc. 381.

Plaintiff was not precluded from maintaining action against Belgian bank for conversion of securities and for moneys due upon account stated because no license as required by Ex.Ord.No.8389, set out as note under section 95a of Title 12, was obtained by plaintiff for transfer by defendants of any of the securities involved or for any dealing therewith, since it is not necessary to obtain Treasury Department licenses to bring suit. *R. & L. Goldmuntz Sprl v. Fischer*, Sup. 1945, 54 N.Y.S.2d 635.

Even though claim by corporation against New York agency of Japanese bank was entitled to recognition as a preferred claim against assets of New York agency in hands of superintendent of banks, corporation's assignee was not entitled either to principal of claim or to accrual-of-interest thereon, where federal regulations required license to be procured under Ex.Ord.No.8389 as amended, set out as note under section 95a of Title 12, before payment could be made, and documents relied upon by assignee to license payment failed to do so. *Singer v. Yokohama Specie Bank*, 1949, 85 N.E.2d 894, 299 N.Y. 113, affirmed 70 S.Ct. 903, 339 U.S. 841, 94 L.Ed. 1323.

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50 App. § 5 WAR AND NATIONAL DEFENSE  
Note 24

24. — Persons entitled to

To ascertain the true effect of license issued by Secretary of the Treasury to attorney in fact of a resident of Lithuania to represent the resident of Lithuania in certain estate proceedings, the license was required to be considered in the light of Ex.Ord.No.8389, set out as a note under section 95a of Title 12, pursuant to which it was granted. In re Willer's Estate, 1942, 37 N.Y.S.2d 906, 179 Misc. 169.

An attorney at law does not come within the terms of section 1 et seq. of this Appendix so as to authorize a license to be issued to him to prosecute a suit for a client who is an enemy or ally of enemy. Hungarian General Credit Bank v. Titus, 1918, 169 N.Y.S. 926, 182 App.Div. 826.

25. — Revocation

Where, under this section, Attorney General, as successor to Allen Property Custodian, gave respondents license to apply a debt owing to an enemy entity, and such debt was thereafter applied and disbursed by respondent in part to third persons, there was nothing which Attorney General could vest by vesting order issued after revocation of license, in absence of fraud or failure to comply with license provisions. Brownell v. National City Bank of New York, D.C.N.Y. 1935, 131 F.Supp. 60.

Attorney General, as successor to Allen Property Custodian, had right to insert, in license to apply debt owing to an enemy entity, provision that license would be void from date of its issuance if issued as result of wilful misrepresentation on part of licensee or his agent, and licensee, by accepting such license with such provision, was bound thereby. Id.

26. Assignments

Ex.Ord.No.8389, set out as a note under section 95a of Title 12, regulating transactions in foreign exchange and foreign-owned property did not block assets of estate of intestate, some of whose heirs resided in Czechoslovakia and had assigned their interest to American, where intestate died after December 7, 1945. In re Miller's Estate, 1962, 182 N.E.2d 913, 35 Ill.App.2d 348.

27. Bank holiday

Service of attachment warrant on bank depository of trust company's funds during banking holiday, proclaimed by President and Governor, was not inconsistent with such proclamations. Doty v. Baltimore Trust Co., 1933, 265 N.Y.S. 66, 147 Misc. 868.

Bank holiday proclaimed by President was not "special holiday" so as to render judgment of foreclosure obtained during holiday invalid on theory that court was not open for transaction of judicial business. Vidal v. Backs, 1933, 21 P.2d 952, 85 Cal.Dec. 544.

28. Civil actions

The term "status" is properly used in respect to a relationship to property, but right to maintain suit is not a "status"; and in war-terminating joint resolution, proviso that nothing therein should alter "status" under section 1 et seq. of this Appendix of any person with respect to property which was subject to vesting or seizure thereunder dealt with ownership in or right to property, and proviso did not continue suspension of German corporation's right to institute suit on pre-war cause of action against United States corporation. Farbenfabriken Bayer A. G. v. Sterling Drug, Inc., C.A. N.J.1958, 251 F.2d 300, certiorari denied 78 S.Ct. 994, 356 U.S. 957, 2 L.Ed.2d 1065.

German corporation's right to institute suit against United States corporation for breach of cartel agreement was merely suspended upon declaration of state of war between the two countries; and German corporation was entitled to maintain such suit after passage of joint resolution terminating state of war. Id.

Treasury ruling pursuant to Ex.Ord. No.8389, set out as a note under section 95a of Title 12, blocking debts owing to Japanese nationals, that unlicensed transfer of property in blocked accounts is null and void, and defining transfer to include attachment, deprived unlicensed attachment by Japanese national's creditors of preferential position as to debts owed by third party to Japanese national and vested under res vesting orders of alien property custodian, and hence creditors had no interest, right or title sufficient to maintain suit under subsec. (b) of this section, and section 34(f, 1) of this Appendix, after dismissal by hearing examiner of claim against successor to alien property custodian. Or-

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Note 30

vis v. McGrath, C.A.N.Y.1952, 198 F.2d 708, affirmed 73 S.Ct. 596, 345 U.S. 183, 97 L.Ed. 938.

Ex.Ord.No.8785, set out as a note under section 95a of Title 12, made pursuant to this section by which the transfer of money, credit, and other property from any person in the United States to any national of a named foreign country is prohibited, does not affect the right to maintain an action in West Virginia for the death of a resident alien alleged to have been killed by the wrongful act, negligence, or default of another, even where the only beneficiaries of a recovery in such action are citizens and residents of a foreign country. Burgess v. Gilchrist, 1941, 17 S.E.2d 804, 123 W.Va. 727, 138 A.L.R. 676.

29. Confiscation—Generally

The purpose of confiscation under subsec. (b) of this section is either to lessen ability of enemy government to make war on United States by depriving it of means so to do which would otherwise be within its reach or to enhance ability of this country to prosecute the war. Josephberg v. Markham, C.C.A.N.Y. 1945, 152 F.2d 644.

30. — Property subject to

Provision of subsec. (b) of this section that any property or interest of any foreign country or national thereof shall vest upon terms directed by President, grants authority to vest obligations evidenced by domestic negotiable bearer bonds even though debentures are outside the United States. Citles Service Co. v. McGrath, N.Y.1952, 72 S.Ct. 334, 342 U.S. 330, 96 L.Ed. 359.

German corporation's claim against United States corporation for breach of cartel agreement constituted "property" within meaning of subsec. (b) of this section. Farbenfabriken Bayer A. G. v. Sterling Drug, Inc., C.A.N.J.1958, 251 F. 2d 300, certiorari denied 78 S.Ct. 994, 356 U.S. 957, 2 L.Ed.2d 1065.

Subsec. (b) of this section authorized the President to sequester or seize property of enemy governments or enemy aliens to end that United States might successfully prosecute all objects of war. Id.

Where mother and father, who were German citizens, gave 600 shares of stock to son who was a citizen of Liechtenstein, by instrument providing that title was

transferred to the son, but that the usufruct in the shares was not assigned but remained with the father and mother until the death of the survivor of them, and that 20 percent of all dividends and interest received should accrue to son, and thereafter stock in American corporations was substituted for the 600 shares, shares in American corporations were properly seized by the Allen Property Custodian under subsec. (b) of this section. Uebersee Finanz-Korporation, A. G. v. McGrath, 1951, 196 F.2d 557, 89 U.S.App. D.C. 167, affirmed 72 S.Ct. 618, 343 U.S. 205, 96 L.Ed. 888.

Residence by citizen of United States in enemy country for purpose of trade, stamps property of such citizen within enemy character sufficient to support seizure and confiscation of his property. Josephberg v. Markham, C.C.A.N.Y.1945, 152 F.2d 644.

The property of a citizen of United States residing in an enemy country may be seized and confiscated to prevent advantage to an enemy by trading with such citizen. Id.

Proceeds of collection for account of, and due, customers of collection agency's Hamburg office were property within United States and subject to seizure under section 1 et seq. of this Appendix, where collection agency was subject to control of U. S. courts. McGrath v. Agency of Chartered Bank of India, Australia & China, D.C.N.Y.1952, 104 F.Supp. 964, affirmed 201 F.2d 368.

Where following decree of Luxembourg government and United States Executive Order No. 8389, which had effect of prohibiting any change of title to stock of subsidiary of Luxembourg holding corporation, which had been seized by the enemy prior to such orders, American citizen and her brother, who were owners in equal shares of all stock of Luxembourg holding corporation, entered into agreement providing that upon dissolution and liquidation of holding corporation American citizen should receive all stock of subsidiary, and subsequently American citizen assigned her shares in holding corporation to her brother and holding corporation was dissolved according to laws of Luxembourg on December 9, 1940. American citizen was not a stockholder of subsidiary with severable interest entitling her to recover shares of common stock of such subsidiary seized under section 1 et seq. of this Appendix.

## Note 30

Albert v. McGrath, D.C.Cal.1952, 104 F. Supp. 891, vacated on other grounds 219 F.2d 602.

Where funds for payment of principal and interest due on negotiable bonds of electric power and light company under plan for liquidation and dissolution of the company were held in the United States, such bonds, owned or controlled by nationals of Germany, though located in Germany, were "property subject to jurisdiction of the United States" or "within the United States" which as such could be vested in Attorney General as successor to Alien Property Custodian without such bonds being reduced to possession by Attorney General. In re Central States Power & Light Corp., D.C. Del.1951, 99 F.Supp. 157.

Under order vesting in Attorney General as successor to Alien Property Custodian debts or obligations evidenced by negotiable bonds of electric power and light company owned or controlled by a national of Germany, Attorney General was entitled to payment of funds deposited with trustee for payment of principal and interest due on such bonds under plan for liquidation and dissolution of the company, though bond certificates were located in Germany and could not be surrendered for cancellation. Id.

Any property which enemy can use, either by actual appropriation or by exercise of control over its owner or which adherents of enemy has power of devoting to enemy's use, is a proper subject of confiscation. Draeger Shipping Co. v. Crowley, D.C.N.Y.1944, 55 F.Supp. 906.

## 31. Contracts—Breach of

Under this section providing that no person shall be liable for anything done or omitted in good faith in connection with administration of subdivision authorizing President to regulate commercial transactions involving property in which a foreign national has any interest, where treasury representative assigned to defendant national's business terminated defendant's employment contract with plaintiff, national defendant was not liable for breach of the contract, in absence of a showing of lack of good faith, even if Secretary of Treasury lacked authority to nullify the contract. Alexewicz v. General Aniline & Film Corporation, 1943, 43 N.Y.S.2d 713, 181 Misc. 181.

Where treasury representative assigned to defendant national's business was authorized to terminate employment contract between plaintiff national and defendant, performance of the contract became a violation of law and was impossible and defendant was not liable for breach thereof. Id.

## 32. — Cancellation or termination of

Where employer and employee were "nationals" of a foreign country, the employment contract was a transaction involving property of a "national" within this section authorizing the President or his agent to prohibit transactions involving property of a foreign national and hence treasury representative assigned to employer's plant, pursuant to authority delegated to the Secretary of the Treasury by the President was authorized to terminate the contract and the termination was validated by Ex.Ord.No.9183, § 9, set out as note under section 6 of this Appendix, expressly ratifying previous action of the Secretary of the Treasury or his deputies. Alexewicz v. General Aniline & Film Corporation, 1943, 43 N.Y.S.2d 713, 181 Misc. 181.

Under this section authorizing the President to prohibit financial transactions of foreign nationals, Ex.Ord.No. 8785, set out as note under section 95a of Title 12, authorizing Secretary of Treasury to "freeze" bank accounts of such nationals, and license of foreign national employer prohibiting changes in personnel without prior approval of treasury representative assigned to employer's plant, representative was authorized to terminate employment contract between employer and employee foreign national. Id.

Where at outbreak of war alien buyer's license to do business was revoked, its establishment sequestered by military authorities and its bank accounts frozen, seller, learning of such facts, was justified in believing that government would not sanction a delivery of rice to alien during existence of hostilities though delivery would be made in United States, and cancellation of contracts was justified. Pacific Trading Co. v. Louisiana State Rice Milling Co., 1949, 42 So.2d 855, 215 La. 1086.

## 33. — Performance

Where order of Treasury Department of December 7, 1941 froze assets of buyer

## Note 37

and prohibited any transaction by, or on behalf of, or for benefit of any national of Japan, and made it impossible for buyer to pay for rice while order was in effect and made illegal seller's performance of its obligation under contracts, before either party could rely on government's action as an excuse for nonperformance, good faith required that it ascertain exact effect of order on its contractual obligations and avenues, if any, of escape from its prohibitions. Pacific Trading Co. v. Mouton Rice Mill. Co., C.A.Ark.1950, 184 F.2d 141.

Where on December 7, 1941, Treasury Department order froze assets of buyer and prohibited any transaction by, on behalf of, or for benefit of any national of Japan, and made it impossible for buyer to pay for rice while order was in effect and made illegal seller's performance of its obligation under contract, but buyer acted promptly to secure a release from restraints imposed on it, buyer manifested its intention to perform, if possible, when time for performance arrived. Id.

## 34. — Insurance

A libel by a Philippine corporation having its principal place of business in Manila was not dismissible under section 7 of this Appendix, on the ground that the libelant was an enemy national, where libelant's claim had been transferred to a domestic insurance company as a pledge to secure the repayment of money paid by the insurer, and the nominal libelant had no interest in the action, having been paid its loss in full almost two years ago. The Ivaran, D.C. N.Y.1942, 46 F.Supp. 394.

A state court judgment against insured bank was not prevented from working an "estoppel" against insurer sued on safe depository liability policy, on ground that plaintiff lacked insurable interest in gold certificates for loss of which judgment was obtained, in view of subsec. (b) of this section and Ex.Ord. No.8260, where status of such certificates was adjudicated in state court proceeding. Abbott v. Aetna Casualty & Surety Co., D.C.Md.1942, 42 F.Supp. 793.

Where safe depository liability policy clearly defined insurer's liability as payment of all sums which insured should become legally obligated to pay by reason of liability for damages when obligation should have been finally deter-

mined by judgment, insurer could not avoid liability after judgment against insured bank on ground that there was no insurable interest in gold certificates for loss of which judgment was obtained in view of subsec. (b) of this section and Ex.Ord.No.8260. Id.

## 35. — Sales

Under subsec. (b) of this section and section 12 of this Appendix, the Alien Property Custodian in the exercise of authority delegated by the President, and on making the determination required by said sections, is authorized to sell property in the Philippine Islands to Filipinos. 1946, 40 Op.Atty.Gen. 432.

## 36. Credit transfers

Court would not narrow the broad coverage of Ex.Ord.No.8389, as amended by Ex.Ord.No.8785, set out as a note under section 95a of Title 12, prohibiting transfers of credit by banking institutions, merely because of inconvenience to American citizens and others not involved in any actions adverse to the nation's interest. Propper v. Clark, N.Y.1949, 69 S. Ct. 1333, 337 U.S. 472, 93 L.Ed. 1480.

Ex.Ord.No.8389, set out as a note under section 95a of Title 12, prohibiting all financial transactions between any banking institution in United States and Japan, or any national thereof, unless licensed, prohibited transfers of credit. Carr v. Yokohama Specie Bank, Limited of San Francisco, C.A.Cal.1953, 200 F.2d 251.

Where proceeds of a check belonged to one who had deposited check for collection in a bank's Paris branch when defendant bank received proceeds, an attempted transfer by defendant of credit from proceeds to Paris bank was a "transfer of credit" within Ex.Ord.No. 8446, prohibiting such transfers notwithstanding that result of attempted transfer was merely to reduce Paris bank's indebtedness to defendant, and hence proceeds in defendant's hands were subject to attachment in proceedings against depositor. Philipp v. Chase Nat. Bank of City of New York, Sup.1942, 34 N.Y.S. 2d 465.

## 37. Estates

Where will provided that testator's sister in Germany should receive so much of trust income as she requested up to stated maximum, and that income not

requested should be paid to testator's widow, the Allen Property Custodian was not, under executive order barring transmission of funds to Germany entitled to any funds which sister had not requested. Application of McGrath, Sur.1954, 132 N.Y.S.2d 54.

Distribution of pecuniary legacies, as abated, would not be made to Hungarian executor named in will of testator who resided in Hungary, where there was no administration of testator's estate in Hungary, and, under the circumstances, distribution would be made directly to named legatees, subject to blocking provisions of section 1 et seq. of this Appendix and executive order. *Mastics v. Kiraly*, Ohio Prob.1964, 196 N.E.2d 172.

Where basis of Surrogate's order requiring balance due sole legatee, a Hungarian national, to be deposited with New York City treasurer was ruling of Treasury Department that conditions in Hungary were such that there was no assurance that Hungarian nationals would receive payments made to them, Surrogate's ruling was proper application of provision of Surrogate's Court Act requiring money due legatee to be paid into Surrogate's Court where conditions are such that legatee would not have benefit of payment. In re *Braler's Estate*, 1953, 111 N.E.2d 424, 305 N.Y. 148.

With regard to the tolling of State statute of limitations, O.C.L.A. §§ 1-218, upon the bringing by Dutch heirs during World War II of action to redeem escheated estate, *Ex.Ord.No.8389*, as amended by *Ex.Ord.No.8785*, set out as a note under section 95a of Title 12, regulating transactions in foreign exchange and foreign owned property either had no application to persons in The Netherlands or did not prohibit communication by mail or the filing of a complaint for refund of the escheated property. *Peters v. McKay*, 1952, 246 P.2d 585, 195 Or. 412.

38. Exemptions

Transactions by which a German national granted a power of attorney and assigned to attorney an interest in property claimed by German national as next of kin of resident and citizen of Pennsylvania who died intestate were not merely for the purpose of ascertaining facts so as to be exempt under Public Circular effective January 2, 1947, from Treasury's general rulings prohibiting trans-

actions with enemy nationals. *Blank v. Clark*, D.C.Pa.1948, 79 F.Supp. 373.

39. Foreign exchange transactions

Under general license authorizing remittances by any individual through any bank to any individual within any foreign country designated in *Ex.Ord.No.8399* prohibiting transfer of property, provided remittances are made only for necessary living expenses of payee and his household, the person asserting the right to a remittance has burden of proving as a matter of fact that sum proposed to be transmitted is necessary for the defrayal of such living expenses, and no inference of the existence of such a condition may be indulged. In re *Plemich's Estate*, 1941, 28 N.Y.S.2d 86, 176 Misc. 560.

Where seller in Belgium delivered to buyers in New York an invoice for rugs for a certain number of Belgian francs payable against documents through bank in New York, and documents were sent to bank with instructions that they should be delivered against payment only, and that after collection, bank should credit a Belgian bank, and buyers obtained from Treasury Department in accordance with Executive Order of the President a license permitting payment in Belgian francs to bank on behalf of seller, and thereafter buyers tendered to bank Belgian francs in agreed amount together with license and demanded delivery of documents, there was sufficient "tender" of payment to entitle buyers to obtain possession of the documents, though Executive Order prevented transmission of the credit to Belgium because of the war. *Herzfeld v. National City Bank of New York*, 1940, 24 N.Y.S.2d 69, 175 Misc. 534.

When New York bank to which seller of rugs in Belgium had sent documents of title to rugs with instructions that documents were to be delivered only if agreed amount of Belgian francs be paid to bank by buyers, notified buyers of its receipt of the documents and offered to deliver them to the buyers on payment of the Belgian francs, with knowledge of the existence of Executive Order which imposed certain regulations with respect to Belgian francs, bank and its principals elected to subject the proceeds to such government regulations and could not complain of them in action by buyers to recover possession of the documents. *Id.*

40. Foreign securities transactions

Where Germans, on invasion of Netherlands, confiscated bonds issued by American corporations and owned by Netherlands nationals, and bonds were sold on black market by agent of German government and were acquired by Swiss firm, and in 1948 American citizen went to Switzerland and bought bonds at a discount with wilful ignorance of their origin and without being licensed to buy them, he had no valid claim to bonds because of violation of freezing control legislation and regulations and because not a holder in due course. *State of The Netherlands v. Federal Reserve Bank of N. Y.*, C.A.N.Y.1953, 201 F.2d 455.

Executive order dated May 10, 1940, had effect of prohibiting any change of title to shares of subsidiary of Luxembourg holding corporation owned by American citizen and her brother. *Albert v. McGrath*, D.C.Cal.1952, 104 F.Supp. 891, vacated on other grounds 219 F.2d 602.

41. Freezing of foreign funds—Purpose

*Ex.Ord.No.8785*, set out under section 95a of Title 12, immobilized assets covered by its terms so that title to them might not shift from person to person except by license until government could determine whether those assets were needed for prosecution of threatened war or to compensate our citizens or ourselves for damages done by governments of the nationals affected. *Propper v. Clark*, N.Y.1949, 69 S.Ct. 1333, 337 U.S. 472, 93 L.Ed. 1480.

The purpose of *Ex.Ord.No.8389*, as amended by *Ex.Ord.No.8785*, set out under section 95a of Title 12, freezing certain foreign funds in the United States was to prevent those funds from falling into the hands of aggressor Axis powers, and it was not intended to interrupt the orderly and established processes of the law, to inhibit the delivery of such funds into custodia legis, or to prevent the courts, their processes, and officers, from pursuing and discharging their normal duties and functions. *Brown v. J. P. Morgan & Co.*, 1941, 31 N.Y.S.2d 323, 177 Misc. 626, reversed on other grounds 40 N.Y.S.2d 229, 265 App.Div. 631, affirmed 67 N.E.2d 263, 295 N.Y. 867.

The range of the application of *Ex.Ord.No.8389*, as amended by *Ex.Ord.No.8785*, set out as note under section 95a of Title 12, freezing certain foreign funds in the United States must be viewed and

measured in the light of its obvious intent. *Id.*

The purpose of *Ex.Ord.No.6580*, set out under section 95a of Title 12, freezing certain foreign funds in United States was to prevent such funds from falling into hands of aggressor Axis powers and was not intended to do away with right of creditor of foreigner to attach such frozen funds. *Commission for Polish Relief v. Banca Nationala A Rumaniei*, 1942, 43 N.E.2d 345, 288 N.Y. 332.

*Ex.Ord.No.8389*, as amended by *Ex.Ord.No.8565* set out under section 95a of Title 12, freezing foreign funds in United States is a check upon trading with the enemy and its prime purpose is to stop such use of foreign property rights as might imperil national defense. *Id.*

42. — Countries affected

Danger of war was sufficiently grave on June 14, 1941, to justify freezing order. *Ex.Ord.No.8785*, set out as a note under section 95a of Title 12, prohibiting transfer of Austrian property. *Propper v. Clark*, N.Y.1949, 69 S.Ct. 1333, 337 U.S. 472, 93 L.Ed. 1480, rehearing denied 70 S.Ct. 33, 338 U.S. 841, 94 L.Ed. 514, rehearing denied 72 S.Ct. 239, 342 U.S. 907, 96 L.Ed. 679.

Upon the invasion of Denmark and Norway, the President, acting under section 1 et seq. of this Appendix, took steps to "freeze" the property in the United States of the nationals of the invaded countries by *Ex.Ord.No.8389*, set out under section 95a of Title 12, and upon the subsequent invasion of the Netherlands and Belgium, the Executive Order was extended to apply to nationals of these two countries and from time to time has been made applicable to other states as the area of German invasion or domination was extended. *Anderson v. N. V. Transandine Handelsmaatschappij*, Sup.1941, 28 N.Y.S.2d 547, affirmed 31 N.Y.S.2d 194, 263 App.Div. 705, affirmed 43 N.E.2d 502, 289 N.Y. 9.

43. — Attachment of foreign funds

A general ruling under *Ex.Ord.No.8389*, set out as note under section 95a of Title 12, issued some three to five months after attachments were levied under New York law, on funds of an enemy alien which had been blocked by said order, and which was issued almost two years after issuance of the freezing order, and which for the first time designated an attach-

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ment levy as a prohibited transfer was not admissible as an interpretation of the freezing order, where such interpretation if sustained, would be not only retroactive, but inconsistent and irreconcilable with contentions made by both the Treasury and the Department of Justice to the New York Court of Appeals. *Zittman v. McGrath*, N.Y.1951, 71 S.Ct. 832, 341 U.S. 440, 95 L.Ed. 1096.

Where citizen, after funds of enemy alien had been blocked by Ex.Ord.No. 8389, set out as note under section 95a of Title 12, attached such funds under New York law and later secured judgment by default but failed to secure a license from the Treasury Department for payment of the judgment from the blocked accounts and nothing in the state court proceedings purported to frustrate the purposes of the freezing program and the attachment proceedings could not benefit the enemy and the sole beneficiaries thereof were American citizens whose liens were adverse to any enemy interests, the attachment proceedings were not invalidated by the freezing program. *Id.*

Congress has power to authorize nullification of all attachment liens obtained after freezing order blocking debts owing to enemy nationals. *Orvis v. McGrath*, C.A.N.Y.1952, 198 F.2d 708, affirmed 73 S. Ct. 506, 345 U.S. 183, 97 L.Ed. 938.

Treasury ruling pursuant to Ex.Ord. No.8389, set out as a note under section 95a of Title 12, blocking debts owing to Japanese nationals, that unlicensed transfer of property in blocked accounts after effective date of said order is null and void, and defining transfer to include attachment, and the order, was authorized by subsec. (b) of this section authorizing the President to regulate transactions involving property in which foreign national has any interest. *Id.*

Treasury ruling that unlicensed transfer of property in blocked accounts after effective date of Ex.Ord.No.8389, set out as a note under section 95a of Title 12, is null and void, and defining transfer to include attachment, was within scope of such order blocking debts owing to Japanese nationals pursuant to subsec. (b) of this section and sections 9(a), 34(f), 1) of this Appendix. *Id.*

Ex.Ord.No.6560, set out under section 95a of Title 12, freezing Rumanian funds in United States did not prevent valid levy under writ of attachment on Ru-

manian bank's deposits in New York banks, and under levy, court acquired dominion over rights and interests of Rumanian bank in deposits, which were an attachable res, where said executive order merely provided a regulatory plan and operated exclusively in personam on New York banks and had no other legal effect. *Commission for Polish Relief v. Banca Nationala A Rumaniei*, 1941, 30 N.Y.S.2d 690, 262 App.Div. 543.

Ex.Ord.No.8565, as amended by Ex. Ord.No.8565, set out under section 95a of Title 12, freezing foreign funds in United States did not transmute liabilities of New York banks to Rumanian bank carrying deposits in such New York banks into "contingent obligations" not subject to attachment in action against Rumanian bank. *Commission for Polish Relief v. Banca Nationala A Rumaniei*, 1942, 43 N.E.2d 345, 288 N.Y. 332.

44. — Receivership

Temporary receiver of New York assets of an Austrian society did not have such title as to defeat a later freezing order of the Executive prohibiting transfer of funds and a later seizure by Alien Property Custodian. *Clark v. Propper*, C.A.N.Y.1948, 160 F.2d 324, affirmed 69 S.Ct. 1333, 337 U.S. 472, 93 L.Ed. 1480, rehearing denied 70 S.Ct. 33, 338 U.S. 841, 94 L. Ed. 514, rehearing denied 72 S.Ct. 289, 342 U.S. 907, 96 L.Ed. 679.

Appointment of permanent receiver of New York assets of Austrian society could not be given retroactive effect to time of his initial appointment as temporary receiver for purpose of establishing that receiver had such title of the assets of Austrian society as to defeat freezing order of Executive promulgated subsequent to appointment of temporary receiver. *Id.*

45. — Transfers restricted by

Ex.Ord.No.8389, set out as a note under section 95a of Title 12, blocking all transfers of evidence of debt or interests in property of Japanese nationals, unless permitted by license from Secretary of Treasury, promulgated as an implementation of section 1 et seq. of this Appendix, was valid. *Orvis v. Brownell*, N.Y. 1953, 73 S.Ct. 600, 345 U.S. 242, 97 L.Ed. 983.

American and Austrian associations of composers, authors and publishers which held credits for others as an incidental

part of their business were "banking institutions" as defined by Ex.Ord.No.8389, as amended by Ex.Ord.No.8785, set out under section 95a of Title 12, so that transfer of credit from a liability owed by American society to Austrian society, to a liability owed by American society to Austrian society's receiver, violated prohibition of transfers of credit by banking institutions. *Propper v. Clark*, N.Y.1949, 69 S.Ct. 1333, 337 U.S. 472, 93 L. Ed. 1480, rehearing denied 70 S.Ct. 33, 338 U.S. 841, 94 L.Ed. 514, rehearing denied 72 S.Ct. 289, 342 U.S. 907, 96 L.Ed. 679.

Treasury ruling pursuant to Ex.Ord. No.8389, set out as a note under section 95a of Title 12, blocking debts owing to Japanese nationals, that unlicensed transfer of property in blocked accounts is null and void; and defining transfer to include attachment, deprived unlicensed attachment by Japanese national's creditors of preferential position as to debts owed by third party to Japanese national and vested under res vesting orders of alien property custodian, and hence creditors had no interest, right or title sufficient to maintain suit under subsec. (b) of this section and sections 9(a) and 34(f), 1) of this Appendix after dismissal by hearing examiner of claim against successor to alien property custodian. *Orvis v. McGrath*, C.A.N.Y.1952, 198 F.2d 708, affirmed 73 S.Ct. 596, 345 U.S. 183, 97 L.Ed. 938.

The prohibition of unlicensed transfer of property contained in Ex.Ord.No.8389, as amended by Ex.Ord.No.8785, set out as note under section 95a of Title 12, is universal and does not except transfers by judicial process. *Clark v. Propper*, C.A.N.Y.1948, 160 F.2d 324, affirmed 69 S. Ct. 1333, 337 U.S. 472, 93 L.Ed. 1480, rehearing denied 70 S.Ct. 33, 338 U.S. 841, 94 L.Ed. 514, rehearing denied 72 S.Ct. 289, 342 U.S. 907, 96 L.Ed. 679.

Under Ex.Ord.No.8389, as amended by Ex.Ord.No.8785, set out as note under section 95a of Title 12, prohibiting unlicensed transfer of property, unlicensed transfer of New York assets of Austrian society to a permanent receiver appointed under New York law was not authorized. *Id.*

Any right, to assets of German corporation, which accrued to non-German as sole stockholder of corporation involved no such "transfer" or "transaction" as was subject to license requirements of

so-called "Freezing order." *Pernikoff v. Kennedy*, D.C.D.C.1963, 219 F.Supp. 854.

Where representatives of foreign bank brought action against American bank for Treasury Bills and credit balance of foreign bank, and American bank interpleaded other foreigners, who it alleged claimed funds, but alien property custodian denied American bank's application for license permitting it to pay funds into registry of court, bank was permitted, without posting bond, to keep bills, which it already held in safekeeping in name of foreign bank, but was required to segregate credit balance from its general funds and to hold them as special funds subject to judgment of court and directions of office of alien property. *A/S Kredit Bank v. Chase Manhattan Bank*, D.C.N.Y.1957, 155 F. Supp. 30.

Act of American citizen in purchasing in Switzerland, bearer bonds, which had been issued by United States corporations and which had been appropriated by the Germans during World War II in the Netherlands in violation of rules of the Fourth Hague Convention, 1907, arts. 46, 53, 36 Stats. 2306, was in violation of Ex.Ord.No.8389 as amended by Ex.Ord.No.8785 set out as a note under section 95a of Title 12, unless the purchase was authorized by the Secretary of the Treasury. *State of the Netherlands v. Federal Reserve Bank of N. Y.*, D.C. N.Y.1951, 99 F.Supp. 635, affirmed in part and reversed in part on other grounds 201 F.2d 455.

Under Ex.Ord.No.8389, as amended by Ex.Ord.No.8565, set out under section 95a of Title 12, prohibiting persons within the United States from transferring or dealing in evidences of ownership of "property" in which foreign country designated in order had any interest, quoted phrase included stock. *Heyden Chemical Corp. v. Clark*, D.C.N.Y.1949, 85 F.Supp. 949.

Ex.Ord.No.6560, set out as note under section 95a of Title 12, relating to transactions in foreign exchange and transfers of credit between American and foreign banks and export or withdrawal from United States of legal tender did not bar presentation of claims against estate of decedent evidenced by check made by decedent in Italy for a loan. *In re Mason's Estate*, 1948, 86 N.Y.S.2d 232, 194 Misc. 308.

Ex.Ord.No.8389, set out as note under section 95a of Title 12, requiring a license from Secretary of the Treasury for transfer of money deposited by Estonian corporation in New York bank before incorporation of Estonia into Union of Soviet Socialist Republics did not affect corporation's title to funds thus deposited, and provision could be made in judgment that no-payment be made to corporation except upon full compliance with applicable regulations. *A/S Merilaid & Co. v. Chase Nat. Bank of City of New York*, 1947, 71 N.Y.S.2d 377, 189 Misc. 285.

A French national's transfer, by book entries, of securities in possession of New York agency of international bank, to bank's head office in London, without United States Treasury license, was void under Ex.Ord.No.8389, as amended, set out as note under section 95a of Title 12, freezing foreign funds in United States, and receiver, appointed for the French national in supplementary proceedings brought by judgment creditor of French national had title to and was entitled to possession of such securities on obtaining the necessary license. *Patino v. Patino*, 1945, 59 N.Y.S.2d 53, 186 Misc. 331.

Ex.Ord.No.8389, as amended by Ex.Ord.No.8565, set out under section 95a of Title 12, freezing foreign funds in the United States deprived Rumanian bank of its power to transfer any interest in funds deposited in New York banks to the account of the Rumanian bank except through the medium of assignment subject to a releasing of the credit by the Secretary of the Treasury. *Commission for Polish Relief v. Banca Nationala A Rumaniei*, 1942, 43 N.E.2d 345, 283 N.Y. 332.

Ex.Ord.No.8560, set out under section 95a of Title 12, freezing foreign funds in United States did not have an expropriating effect and did not prohibit institution of suit against domestic bank holding foreigner's funds, and did not prevent assignment of claim against foreigner, but merely restrained payment or transfer of funds by domestic bank. *Id.*

Where moneys of which husband, an American citizen, was trustee for nonresident alien nationals was transferred by wife from joint account to wife's personal account, such funds should be deposited with register of court by wife, who was suing for divorce and division of joint property, to be repaid to husband upon his petition and due proof that

such repayment would not contravene orders promulgated under President's emergency powers as to freezing property of alien nationals. *Roubicek v. Roubicek*, 1945, 21 So.2d 244, 246 Ala. 442.

46. Gifts

A deceased enemy alien's widow, obtaining no license from Secretary of Treasury for transfer to her of deceased's silk contracts account with brokerage house, as directed in his letter to such house shortly before his death, was not entitled to allowance of claim against deceased's estate for proceeds of such contracts on theory of completed gift of account to widow by deceased, as widow had no dominion over such fund during deceased's lifetime. *In re Giovanozzi's Estate*, Sur.1945, 57 N.Y.S.2d 528.

47. Gold coin or bullion—Definition

In prosecution for conspiracy to export gold bullion, wherein coconspirator described gold as "plates and bars", expert testimony that gold bars were gold bullion within meaning of subsec. (b) of this section was not required under circumstances. *U. S. v. Brecher*, C.A.N.Y. 1957, 242 F.2d 642.

Subsec. (b) of this section authorizing the President to prohibit hoarding of gold bullion, and Ex.Ord.No.6102, and Ex.Ord.No.6260, set out as notes under section 95a of Title 12, issued thereunder, contemplated that "gold bullion" should include melted scrap gold. *U. S. v. Levy*, C.C.A.N.Y.1943, 137 F.2d 778.

There is nothing in the record to justify the conclusion that in this section and in Ex.Ord.No.6102, it was not intended to include in the term "gold bullion" newly mined gold melted and cast into gold bars containing as much as 83 percent pure gold. *Alaska Juneau Gold Mining Co. v. U. S.*, 1942, 94 Ct.Cl. 15.

48. — Acquisition and hoarding of

Ex.Ord.No.6260, issued pursuant to subsec. (b) of this section, which order provides that no person other than a Federal Reserve Bank shall after date of order acquire in United States any gold coin, gold bullion, or gold certificates except under license therefor issued pursuant to said order, remains extant and is valid and effective in view of section 213 of Title 12. *Ruffino v. U. S.*, C.C.A. Cal.1940, 114 F.2d 696.

Acquisition and possession without a license of gold bullion was illegal as of the May 23, 1963 date charged in indictment for illegal acquisition and possession as against contention that continuation of 1933 economic emergency was requisite to validity of embargo on bullion and imposition of criminal sanctions. *U. S. v. Lane*, D.C.N.Y.1963, 218 F.Supp. 450.

The Executive Order of April 5, 1933, revoked by section 11 of Ex.Ord.No.6260, forbidding the hoarding of gold coin, gold bullion, and gold certificates, does not apply to those who within the continental United States hold gold in custody or in trust for nonresident alien owners. 1933, 37 Op.Atty.Gen. 155.

It applies to gold physically located within the continental United States and owned by a nonresident alien who has entered the United States while said order is in effect. *Id.*

It does not apply to gold physically located outside the continental United States owned by a citizen thereof, residing in the United States, or by a partnership, association or corporation organized under the laws of the United States or of any State and having its principal place of business in the United States. *Id.*

Plaintiff was in no better position than any other holder of gold or gold bullion within the meaning of subsec. (b) of this section and Ex.Ord.No.6102, and the Treasury regulations merely because its gold bullion was obtained as the result of its mining operations rather than by purchase or by some other mode of acquisition. *Alaska Juneau Gold Mining Co. v. U. S.*, 1942, 94 Ct.Cl. 15.

49. — Collectors of rare coins

Subsec. (b) of this section, as amended by Act of March 9, 1933, c. 1, § 2, authorizing the President to regulate the hoarding, melting or ear-markings of gold coin or bullion, and section 4 of Ex.Ord.No.6260 as amended by Ex.Ord.No.6556, set out as a note under section 95a of Title 12, prohibiting the acquisition of gold coin except under license, but permitting collectors of rare coin to acquire from one another gold coin having recognized special value to collectors, were not amended or repealed by the Gold Reserve Act, sections 441-443 of Title 31, and regulation of Secretary of Treasury thereunder providing that gold

coin of recognized special value to collectors may be acquired without necessity of holding a license therefor. *Farber v. U. S.*, C.C.A.Cal.1940, 114 F.2d 5, certiorari denied 61 S.Ct. 173, 311 U.S. 706, 85 L. Ed. 458.

50. — Compensation for

Gold bars, newly mined in crude and natural alloy form, produced by plaintiff, which were 83 percent or more pure gold, constituted "gold bullion" within the meaning of this section, and Ex.Ord.No.6102, and plaintiff is not entitled to recover as just compensation, as for a taking of property under U.S.C.A.Const. Amend. 5, any amount in excess of the total amount paid by the defendant for the bars at the rate of \$20.76 plus per fine ounce of gold under the rules applied in *Nortz v. U. S.*, 80 Ct.Cl. 859.

51. — Payment in

Ex.Ord.No.8389, set out as a note under section 95a of Title 12, regulating transactions in foreign exchange and foreign owned property interdicted solely payment and not the prosecution of an action, or the assignment of a claim, for such property. *Leeds v. Guaranty Trust Co. of N. Y.*, Sup.1946, 65 N.Y.S.2d 431, affirmed 72 N.Y.S.2d 409, 272 App.Div. 909, affirmed 80 N.E.2d 638, 297 N.Y. 1019.

Notice of sale under trust deed that sale would be made for cash, payable in United States gold coin, was not invalid on ground that terms could not be met because possession of gold was illegal, where congressional resolution authorized discharge of obligation to pay gold coin by payment of any legal tender, since its effect was to strike provision for payment in gold coin. *Security-First Nat. Bank of Los Angeles v. Cuesta*, 1936, 59 P.2d 542, 15 Cal.App.2d 302.

Under state statute authorizing party in justice court to deposit, in lieu of a required undertaking, an equal amount of money in United States gold coin, deposit of lawful currency would be sufficient in view of presidential executive orders, based on subsec. (b) of this section prohibiting and making impossible the use of gold coin for such purpose. *Stewart v. Justice's Court of Lindsay Tp.*, 1935, 45 P.2d 424, 7 Cal.App.2d 61.

52. — Surrender of

Subsec. (b) of this section authorizing the President to prohibit the export,

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hoarding, melting, or earmarking of gold or silver coin or bullion or currency. President had power to require delivery of gold coins and bullion and gold certificates to government representatives. *U. S. v. Levy*, C.C.A.N.Y.1943, 137 F.2d 778.

Under this section, plaintiff during period from November 24, 1933, the date of the supposed conversion of gold bullion by Federal Reserve Bank, to December 28, 1933, the date of an order of the Secretary of the Treasury unequivocally directing the surrender of gold coin and bullion, would have been bound at once to hand bullion back, even if bank had complied with plaintiff's demand to surrender bullion, and hence bank's refusal caused plaintiff no substantial damages, and in action for conversion, where District Court's jurisdiction rested on section 1332 of Title 28 requiring amount in controversy to be \$3,000 or more, plaintiff could recover no costs. *British-American Tobacco Co. v. Federal Reserve Bank of New York*, C.C.A.N.Y.1939, 104 F.2d 652, affirmed 105 F.2d 935, certiorari denied 60 S.Ct. 131, 308 U.S. 600, 84 L.Ed. 502.

#### 53. Money transactions

Money in hands of an administrator, belonging to alien enemy will be held, to be paid to the alien at end of war, or in the meantime to the constituted authority of the United States entitled to receive it. *In re Kelly*, 1917, 167 N.Y.S. 256, 101 Misc. 495.

#### 54. Nationals

A naturalized citizen of Italian birth who temporarily returned to Italy in attempt to regain his lost mental health and who was unable to return because of the war, was not "resident" of Italy, an "enemy," "foreign national" or a "national of a designated enemy country" within section 1 et seq. of this Appendix so as to permit seizure of the property by the Alien Property Custodian. *Josephberg v. Markham*, C.C.A.N.Y. 1945, 152 F.2d 644.

Plaintiffs who had had firm and continuing intent to leave Hungary forever before date of order, but who were kept involuntarily in Hungary, and who had lost their home and civil and voting rights, were not domiciled in, or subjects, citizens or residents of Hungary, within Ex.Ord.No.8389, set out as a note under section 95a of Title 12, defining nation-

als, and thus were entitled to sue for property vested under International Claims Settlement Act, section 1631f(a) of Title 22. *Roboz v. Kennedy*, D.C.D.C. 1963, 210 F.Supp. 892.

Where corporations were found guilty of conspiracy to violate section 611 et seq. of Title 22, corporations were "nationals" within Ex.Ord.No.8389, set out under section 95a of Title 12, prohibiting certain transactions with designated foreign countries or nationals thereof unless authorized by license issued by Treasury Department, and consequently the purchase without such license of tax sale certificates issued in connection with delinquent real estate taxes assessed against property of corporations could vest no rights in purchaser. *Dix v. Brownell*, D.C.N.Y.1953, 159 F.Supp. 163, affirmed 269 F.2d 84.

Where Japanese citizen controlled the use of land which he allegedly gave as a gift to his son who was an American citizen and son would not act with respect to title contrary to his father's interest in the business to which the land was essential, Alien Property Custodian was justified in determining the son to be a national of enemy country, Japan, and hence, property was validly vested under section 1 et seq. of this Appendix and Ex.Ord.No.8389, set out as a note under section 95a of Title 12, issued thereunder. *Kaname Fujino v. Clark*, D.C. Hawaii 1947, 71 F.Supp. 1, affirmed 172 F.2d 384, certiorari denied 69 S.Ct. 1512, 337 U.S. 937, 93 L.Ed. 1743, rehearing denied 70 S.Ct. 34, 338 U.S. 839, 94 L.Ed. 513.

Business firm owned by German government and other firms under its control were "nationals" of a foreign country within Ex.Ord.No.8389, set out as note under section 95a of Title 12, relating to transactions in foreign exchange with nationals of certain foreign countries and Ex.Ord.No.9095, as amended by Ex.Ord.No.9193, set out as note under section 6 of this Appendix, authorizing Alien Property Custodian to vest in himself the business properties of nationals of designated enemy countries. *Draeger Shipping Co. v. Crowley*, D.C.N.Y.1944, 55 F.Supp. 906.

A New York corporation, the stock of which was either held by a Swiss holding company owned by German government through the German State Railways or held by a resident of the Netherlands acting as representative of a

business firm also owned by the German government through the German State Railways was a "national" of a foreign country within Ex.Ord.No.8389, set out as note under section 95a of Title 12, Ex.Ord.No.9095, as amended by Ex.Ord.No.9193, set out as note under section 6 of this Appendix, relating to transactions in foreign exchange with nationals of certain foreign countries and authorizing Alien Property Custodian to vest in himself business property of nationals of designated enemy countries. *Id.*

Under the provisions of subsec. (b) of this section and Ex.Ord.No.8389, as amended §§ 5, subd. E (iii, iv), 7, set out as a note under section 95a of Title 12, only the Secretary of the Treasury can determine who is a "national" and block funds of such national. *Hartmann v. Federal Reserve Bank of Philadelphia*, D.C.Pa.1944, 55 F.Supp. 801.

Under this section and Ex.Ord.No.8785, set out as a note under section 95a of Title 12, defining word "national" as used therein where nationals of the specified foreign countries owned and controlled substantially all of Delaware corporation's stock, corporation was a "national" within this section, and, where regulatory powers conferred upon President by this section were delegated to the Secretary of the Treasury and a treasury representative was assigned to corporation's business; Secretary was authorized to license corporation's operations and to take over corporation's stock owned by foreign nationals, and representative was authorized to terminate corporation's employment contract with plaintiff. *Alexewicz v. General Aniline & Film Corporation*, 1943, 43 N.Y.S. 2d 713, 181 Misc. 181.

An employee of a foreign national was a "national" of a foreign country within this section authorizing the President to regulate commercial transactions involving property in which any foreign national has an interest and Ex.Ord.No.8785, set out as a note under section 95a of Title 12, defining national as used in this section to include persons acting in behalf of a foreign national, notwithstanding that the employee was an American citizen. *Id.*

General partnership, which was organized and existing under the laws of France, and which maintained its office in Paris in portion of France occupied by Germany at time when Germany was

at war with the United States, was properly determined by the alien property custodian as a "National of a designated enemy country" within meaning of Ex.Ord.No.8389, § 5, and Ex.Ord.No.9095, § 10. *Stern v. Newton*, 1943, 39 N.Y.S.2d 593, 180 Misc. 241.

The alleged fact that securities were in fact plaintiff's property, and were only being held in the name of French general partnership as a nominee, did not prevent seizure of the securities by the alien property custodian on ground that the French general partnership was a national of a designated enemy country. *Id.*

#### 55. — Resident in enemy country

Where construction of the word "resident" in enemy country within subsec. (b) of this section and section 3(a) of this Appendix and executive orders to include a naturalized citizen making a temporary trip to enemy country to regain his lost mental health would create a doubt as to the constitutionality of section 1 et seq. of this Appendix, such a construction would be avoided by the court. *Josephberg v. Markham*, C.C.A.N.Y.1945, 152 F.2d 644.

#### 56. Payment of commission

Under this section and sections 9 and 12 of this Appendix, the Secretary of the Treasury could lawfully comply with the request of the Alien Property Custodian for the payment of the commission and fees incurred in securing possession of certain enemy trusts herein set forth, to the extent that money had been deposited in the Treasury of the United States to the credit of the respective trusts. 1919, 31 Op.Atty.Gen. 433.

#### 57. Proxies

Where, before the war, French stockholders in domestic corporation gave proxies to resident and later became enemies within section 1 et seq. of this Appendix, when United States entered war, it is desirable if not necessary, before declaring valid vote upon proxies after war declared, to inquire whether disclosure of appropriate information, particularly ownership of stock by aliens, was made as required by regulations under Ex.Ord.No.8389 as amended by Ex.Ord.No.8785, set out as a note under section 95a of Title 12. *Aldridge v. Franco-Wyoming Securities Corp.*, 1943, 31 A.2d 246, 27 Del.Ch. 80.

## 58. Vesting proceedings

Vesting proceeding provided for under this section is intended to deprive enemy nationals, actual or potential, of opportunity to secure advantage to themselves or to perpetuate wrongs against United States or its citizens through use of enemy assets that happen to be in this country, and to provide procedure to make such assets available for use by United States in prosecution of war. In re Heubach's Will, Sur.1954, 134 N.Y.S.2d 109.

Order of alien property custodian vesting in himself securities in name of enemy national did not determine whether plaintiff or enemy national was entitled to the securities, but it did give custodian right to immediate possession of the securities for the benefit of the United States. Stern v. Newton, 1943, 39 N.Y.S.2d 503, 180 Misc. 241.

## 59. Violations

To charge crime for violation of this section authorizing President to regulate or prohibit any importation involving any property in which a foreign country or a national thereof has any interest by any person subject to jurisdiction of United States, it is not required, either as a matter of pleading or proof, that merchandise be "enemy tainted". U. S. v. Broverman, D.C.N.Y.1959, 180 F.Supp. 631.

In action under section 1 et seq. of this Appendix by Attorney General, as successor to Alien Property Custodian, against New Jersey corporation, whose stock was owned by German nationals, filing of counterclaim by corporation for rescission of agreement by corporation's directors to assign old patents of corporation to Alien Property Custodian for use of government and its citizens and to license new patents, was not a "willful" violation of said sections or any order, rule, or regulation issued thereunder, within meaning of the penal provisions of said sections. Brownell v. Schering Corp., D.C.N.J.1955, 129 F. Supp. 879, affirmed 228 F.2d 624, certiorari denied 76 S.Ct. 849, 351 U.S. 954, 100 L.Ed. 1477.

## 60. — Place of violations

The United States had power to regulate actions of citizen of the United States outside the territorial limits of the United States, and hence whether or not condemned act of having bonds brought

from Switzerland to the United States in violation of this section occurred within Switzerland, was immaterial. State of the Netherlands v. Federal Reserve Bank of N. Y., D.C.N.Y.1951, 99 F.Supp. 655, affirmed in part, reversed in part on other grounds 201 F.2d 455.

## 61. Jurisdiction—Administrative remedy

Where a national failed to pursue the administrative remedy of appeal provided for by subsec. (b) of this section and Ex.Ord.No.8389, as amended, §§ 5, subd. E (III, iv), 7, set out as note under section 95a of Title 12, with respect to the "blocking" of bank accounts of foreign nationals, a federal court action to "unblock" such account was not maintainable. Hartmann v. Federal Reserve Bank of Philadelphia, D.C.Pa.1944, 55 F. Supp. 801.

## 62. — Federal courts

Federal court's determination of whether Austrian association's claim against American society was subject to freezing order should not be delayed until New York courts had settled issue of state law affecting the decision, of whether title to such claim passed from association because of appointment of receiver for association. Propper v. Clark, N.Y.1949, 69 S.Ct. 1333, 337 U.S. 472, 93 L.Ed. 1480, rehearing denied 70 S.Ct. 33, 338 U.S. 841, 94 L.Ed. 514, rehearing denied 72 S.Ct. 289, 342 U.S. 907, 96 L.Ed. 679.

A three-judge district court did not have to hear suit by Cuban residing in Havana for a license to transfer funds from his savings account in New York bank, since the substantial constitutional attack was not upon subsec. (b) (1) of this section but upon the Cuban Assets Control Regulations. Sardino v. Federal Reserve Bank of New York, C.A.N.Y.1966, 361 F.2d 106, certiorari denied 87 S.Ct. 203, 385 U.S. 898, 17 L.Ed.2d 130.

The constitutional argument of Cuban national that peacetime freeze of his bank account for indefinite duration not clearly for his benefit violated due process of U.S.C.A.Const. Amend. 5 was a claim that administrators of an Act of Congress, valid if less expansively applied, acted with too heavy a hand; consideration of such a claim did not demand the convocation of a three-judge court. Id.

Federal district court in New York had jurisdiction of suit under subsec. (b)

of this section and sections 9(a) and 34 (f, l) of this Appendix, by creditors of Japanese national, filed after dismissal by hearing examiner of claim against successor to alien property custodian to debts owed Japanese national by third party and taken over by res vesting orders, if plaintiffs had interest, right, or title in property acquired by custodian. Orvis v. McGrath, C.A.N.Y.1952, 198 F.2d 708, affirmed 73 S.Ct. 596, 345 U.S. 183, 97 L.Ed. 958.

Suit by owner of gold bullion to enjoin national bank's delivery thereof to Federal Reserve Bank under executive order was not within jurisdiction of federal court as "arising under Constitution and laws of United States," because not involving validity or construction of this section authorizing prohibition of gold hoarding. Campbell v. Chase Nat. Bank of City of New York, C.C.A.N.Y.1934, 71 F.2d 609, 94 A.L.R. 708, appeal dismissed 54 S.Ct. 455, 291 U.S. 686, 78 L.Ed. 1073, motion denied 54 S.Ct. 459, 291 U.S. 648, 73 L.Ed. 104, certiorari denied 55 S.Ct. 108, 293 U.S. 592, 79 L.Ed. 636.

Where District Court had jurisdiction at the outset of importer's action under section 1 et seq. of this Appendix to recover certain property, or the proceeds thereof, vested in Alien Property Custodian, contention that court lost jurisdiction after trial was over because plaintiffs had failed to prove one of the two elements that they were called upon to prove in order to recover could not be sustained; the situation more properly should be regarded as one in which plaintiffs failed to prove a claim, not one in which court had been deprived of jurisdiction. von Clemm v. Smith, D.C.N.Y. 1965, 255 F.Supp. 353, affirmed 363 F.2d 19, certiorari denied 87 S.Ct. 502, 385 U.S. 975, 17 L.Ed.2d 438, rehearing denied 87 S.Ct. 1343, 386 U.S. 1014, 18 L.Ed.2d 451.

The issuance of a license by Office of Alien Property under section 1 et seq. of this Appendix and General Regulation, authorizing bank to pay over funds of Hungarian corporation to sole stockholders and officers of corporation, did not give federal district court jurisdiction, as one constituting a controversy arising under the laws of United States, namely the Trading With The Enemy Act, section 1 et seq. of this Appendix, of action by sole stockholders and officers against bank to recover the funds. Kuer-

schner & Rauchwarenfabrik, A. G. v. New York Trust Co., D.C.N.Y.1954, 128 F.Supp. 684.

The federal courts, granted by the Congress the power to issue decree and process in aid of this section, have jurisdiction to enforce by decree, vesting orders of the alien property custodian. Crowley v. Allen, D.C.Cal.1943, 52 F.Supp. 850, reversed 147 F.2d 136, reversed 156 F.2d 653, reversed 66 S.Ct. 296, 326 U.S. 490, 90 L.Ed. 256, affirmed in part, reversed in part on other grounds 67 S.Ct. 1431, 331 U.S. 503, 91 L.Ed. 1633, 170 A.L.R. 953.

Since section 1 et seq. of this Appendix empowered the President to sequester all property inherited by aliens abroad and under section 17 of this Appendix the federal courts are directed to issue decrees and process in aid thereof, the federal court should not decline jurisdiction of action to vest property of such alien in the alien property custodian on ground that a state court was a properly equipped and functioning court fully qualified to determine question of inheritance. Id.

## 63. — State courts

The Chancery Court had no jurisdiction of corporation's suit to restrain national bank from interfering with corporation's right to withdraw funds, where bank contended that corporation's account had been blocked by executive orders of the President of the United States and that company whose assets corporation had bought was a French "national" within orders, the Secretary of the Treasury had power under orders to determine whether company was a national, and corporation was entitled to apply to the Secretary or to the Federal Reserve Bank for a license to withdraw its funds. Carbone Corporation v. First Nat. Bank of Jersey City, 1941, 21 A.2d 366, 130 N.J.Eq. 111.

Correctness of determination of Alien Property Custodian of enemy ownership of certain motion pictures, under section 1 et seq. of this Appendix, and validity of claims of any nonenemy against the vested property could not be litigated and adjudicated in a state court action. Brandon Films, Inc. v. Arjay Enterprises, Inc., 1962, 230 N.Y.S.2d 56, 33 Misc.2d 794.

Levy of attachment on deposits of Rumanian bank in New York banks, al-

though constituting only a seizure subject to license was a sufficient "seizure" to confer jurisdiction in rem over such deposits in action against Rumanian bank for conversion of gold delivered to Rumanian bank for safe-keeping, notwithstanding executive order precluded transfer by Rumanian bank of its interest in such deposits except as specifically authorized by Secretary of the Treasury. *Commission for Polish Relief v. Banca Nationala A Rumanlei*, 1942, 43 N.E.2d 345, 288 N.Y. 332.

Where assignee of Polish bank's claim to gold which had been delivered to Rumanian bank for safe-keeping instituted conversion action against Rumanian bank, and writs of attachment against New York banks in which Rumanian bank had deposits were served, Supreme Court had jurisdiction in rem, notwithstanding that prior to service of writs of attachment an Ex.Ord.No.6500, as amended, set out as a note under section 95a of Title 12, freezing Rumanian funds in United States was issued. *Id.*

64. Process

The fact that default of French general partnership which was not personally served in action to recover possession of certain securities held in account with American co-partnership occurred before issuance of vesting order of Alien Property Custodian to obtain custody of securities on ground that general partnership was an enemy national within meaning of Ex.Ord.No.8389, § 5, and Ex.Ord.No.9095, § 10, did not entitle plaintiff to securities on such default, where vesting order was served before any judgment was entered. *Stern v. Newton*, 1943, 39 N.Y.S.2d 593, 150 Misc. 241.

In action to recover corporate stock wherein it was sought to bring in as a party defendant a third party asserting ownership to the stock, which third party was a resident of the Netherlands, service on third party might be made by mail upon the Attorney General of the United States as successor to the Alien Property Custodian, notwithstanding that the President has not exercised his authority under subsec. (b) of this section to designate an agency to take over property of enemy aliens. *Birnbaum v. Irving Trust Co.*, 1942, 33 N.Y.S.2d 551, 178 Misc. 206.

65. Parties

Decree of Netherlands government in exile, which was entered on invasion of Netherlands by Germany in World War II, and which provided that title to all claims belonging to persons domiciled in Netherlands was vested in Netherlands government, was effective to permit Netherlands government in action in federal court in United States to recover bonds, which had been issued by American corporations, which had been confiscated by German government from Netherlands nationals and sold on black market, and which American citizen, not a holder in due course, had purchased in Switzerland in violation of freezing control legislation and regulations. *State of the Netherlands v. Federal Reserve Bank of N. Y.*, C.A.N.Y.1953, 201 F.2d 455.

66. — Indispensable parties

The Secretary of the Treasury, having exclusive power under subsec. (b) of this section and Ex.Ord.No.8389, as amended, §§ 5, subd. E (iii, iv), 7, set out as note under section 95a of Title 12, to determine who is a "national", and to block bank accounts of such nationals, was an "indispensable party" to an action brought by national against a bank to enjoin bank from blocking the national's account. *Hartmann v. Federal Reserve Bank of Philadelphia*, D.C.Pa.1944, 55 F. Supp. 801.

67. — Intervention

Basis of a suit by innocent stockholders in an enemy tainted corporation under this section is that the corporate veil can be pierced to determine all interests in the corporation, and such stockholders are permitted to intervene because the corporation cannot or will not adequately represent their interests and the litigation is not subject to their control. *Uebersee Finanz-Korporation, A. G. Liestal, Switzerland v. Brownell*, D.C.D.C.1954, 121 F. Supp. 420.

68. — Real parties in interest

A domestic insurance company to whom claim for cargo damage had been transferred as a pledge to secure the repayment of money paid by the insurer was entitled as the "real party in interest" to prosecute the action to recover the cargo damage, notwithstanding the nominal libellant was a Philippine corporation having its principal place of business in Manila, and not entitled to pros-

ecute the action under section 7 of this Appendix since the clear purpose of section 1 et seq. of this Appendix was to prevent American property from falling into enemy hands, and there was no possibility of that occurring if the domestic insurance company was permitted to continue the libel. *The Ivaran*, D.C.N.Y. 1942, 46 F.Supp. 394.

69. Indictment

Indictment charging that on certain date in San Francisco, California, defendant willfully and knowingly imported merchandise consisting of 23 art objects of value of \$23,925 from mainland China without being authorized to do so by the Secretary of the Treasury and in violation of this section sufficiently described unlawfully imported property. *Heaton v. U. S.*, C.A.Cal.1965, 353 F.2d 288, certiorari denied 88 S.Ct. 1595, 354 U.S. 900, 16 L.Ed. 2d 1007.

An indictment adequately giving notice of charge of violating this section by engaging in financial transactions involving interests in Communist China was not defective in failing to list exempted transactions within which defendants' dealings did not fall. *U. S. v. China Daily News*, C.A.N.Y.1955, 224 F.2d 670, certiorari denied 76 S.Ct. 138, 350 U.S. 885, 100 L.Ed. 780.

An indictment charging defendant and others with conspiring to acquire and transport gold without a license issued by Secretary of Treasury, which failed to charge a conspiracy to violate Gold Reserve Act of 1934, sections 442, 443, of Title 31, or any regulation thereunder, could not be upheld on ground that it charged a violation of subsec. (b) of this section and Ex.Ord.No.6260, issued thereunder, since subsec. (b) of this section and said Executive Order issued thereunder relate to gold coin, gold bullion and gold certificates and not to gold, as such. *Fuller v. U. S.*, C.C.A.Cal.1940, 114 F.2d 698.

An indictment charging that defendant, not being a person permitted to acquire gold bullion pursuant to Treasury Regulation, unlawfully and knowingly acquired a certain quantity of gold bullion, was sufficient to charge an offense under subsec. (b) of this section and the Ex. Ord.No.6260, issued pursuant to subsec. (b) of this section, it not being necessary to negative the existence of a license,

which was "defensive matter". *Ruffino v. U. S.*, C.C.A.Cal.1940, 114 F.2d 698.

Where Ex.Ord.No.6260, as amended, permitted collectors of rare and unusual coin to acquire from one another and hold without necessity of obtaining a license gold coin having recognized special value to collectors of rare and unusual coin, indictment charging that defendant willfully, unlawfully and knowingly acquired certain gold coins not having a license theretofore issued authorizing acquisition of gold coin by defendant was not objectionable as failing to state a public offense because it did not disclose whether the coins alleged to have been acquired were coins having a recognized special value to collectors of rare and unusual coin. *Farber v. U. S.*, C.C.A. Cal.1940, 114 F.2d 5, certiorari denied 61 S.Ct. 173, 311 U.S. 706, 85 L.Ed. 453.

Indictment charging that defendant unlawfully engaged in transactions with respect to certain merchandise outside United States, the country of origin of which merchandise was China, was insufficient where applicable regulations interdicted transactions involving merchandise the country of origin of which was China, except Formosa, and exception was integral part of very definition of offense. *U. S. v. Sarkisian*, D.C.Colo.1964, 231 F. Supp. 489.

Addition of words "and objects of art" to expression "Chinese antiques" in indictment charging violation of Treasury regulation which by authority of this section prohibits dealing with antiques, Chinese type, was unjustified, warranting dismissal of indictment. *Id.*

Indictment charging defendants with violation of section 1 et seq. of this Appendix and regulations issued thereunder as a result of importation of hog bristles from China, other than Formosa, set forth a plain and precise statement of essential elements of offense charged and the specific regulation which it was claimed the defendants violated, and hence was sufficiently specific to furnish defendants with information necessary to safeguard their rights and to enable them to prepare their defense. *U. S. v. Broverman*, D.C.N.Y.1959, 150 F.Supp. 631.

Count of indictment charging defendant with conspiring to purchase Chinese hog bristles in violation of regulation prohibiting the purchase of any merchandise outside United States if origin

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of such merchandise was China without authority by government license, was sufficient to state an offense. *U. S. v. Wagman*, D.C.N.Y.1958, 168 F.Supp. 248.

Under regulation issued by Secretary of Treasury under this section providing that except as authorized by government license no person should purchase, transport, import or otherwise deal in or engage in any transaction with respect to merchandise having China as its origin, count of indictment charging defendant with transmitting money to a Canadian company for purpose of partially financing purchases of Chinese hog bristles from a company in Amsterdam, Holland, without authorization by Secretary of Treasury charged defendant with having purposely engaged in an illegal transaction, and did not seek to make him answer merely for harboring an illegal intent. *Id.*

Corporation could have been regularly engaged in jewelry manufacturing and yet have acquired gold on particular date for purpose other than use in profession, industry or art in which it was regularly engaged, and converse might also be true; and therefore indictment counts were not duplicitous in charging corporation with misrepresentations (1) in stating that industry, profession or art in which it was engaged and which required use of gold was manufacturing of jewelry, and (2) in stating that gold which was sold to corporation as result would be used by it in industry, profession or art in which it was regularly engaged. *U. S. v. Carroll*, D.C.N.Y.1956, 144 F.Supp. 939.

70. Defenses

In prosecution for willfully, unlawfully and knowingly acquiring gold coins of the United States without a license in accordance with Ex.Ord.No.6230, as amended, where evidence indicated that an agent acting under instructions from another contacted defendant regarding purchase of gold coins, that secret service operatives acquired knowledge of matter and informed agent of fact, and that agent proceeded to negotiate with defendant relative to such purchase, keeping the operatives acquainted with its progress, and that thereafter the purchase was consummated, defense of "entrapment" could not be sustained. *Farber v. U. S.*, C.C.A.Cal.1940, 114 F.2d 5, certiorari denied 61 S.Ct. 173, 311 U.S. 708, 85 L.Ed. 458.

The payment by corporation, which owed royalties to an enemy alien, to Bureau of Internal Revenue from alien's royalty account, of income taxes due from alien on such royalties pursuant to general license for such payments from blocked accounts constituted a defense to claim of Attorney General, as successor to Alien Property Custodian, for entire royalty account including amount disbursed as income taxes. *Clark v. Dravo Corp.*, D.C.Pa.1949, 83 F.Supp. 122, affirmed 183 F.2d 709.

In action against trust company to recover securities deposited by an alien after assignment to plaintiff, fact that license provided for in Ex.Ord.No.8389, set out as a note under section 95a of Title 12, regulating transactions in foreign exchange and foreign owned property had not been secured at time assignment was made was no defense, since license was not a condition precedent to transfer but was only required to enable defendant trust company to make payment to plaintiff. *Leeds v. Guaranty Trust Co. of N. Y.*, Sup.1946, 65 N.Y.S.2d 431, affirmed 72 N.Y.S.2d 409, 272 App. Div. 909, affirmed 80 N.E.2d 533, 297 N.Y. 1019.

In action by Frenchman who had been deprived of his property by decree of the French government against French corporation doing business in New York for conversion of securities, defense setting up executive order of the President of the United States, and pleading that no license as required by the order had been obtained for transfer of the securities, was not sufficient and should have been struck out. *Bollack v. Societe Generale Pour Favoriser Le Developpement Du Commerce Et De L'Industrie En France*, 1942, 33 N.Y.S.2d 986, 263 App. Div. 601, appeal denied 35 N.Y.S.2d 717, 264 App.Div. 787.

71. Good faith

Failure of officials of Japanese controlled bank to discharge its obligations to depositors by using power in its means to secure a limited license to do business shows an absence of "good faith" within subsec. (b) (2) of this section declaring that no person shall be held liable for or in respect to anything done or omitted in "good faith" in connection with administration of or in pursuance of provisions of this section. *Kiyochi Fujikawa v. Sunrise Soda Water Works Co.*, C.C.A.Hawaii 1946, 158 F.

2d 490, certiorari denied 67 S.Ct. 1511, 331 U.S. 832, 91 L.Ed. 1846, rehearing denied 68 S.Ct. 31, 352, 332 U.S. 785, 853, 92 L.Ed. 368, 422.

72. Waiver

Facts that Justice Department recommended that organization, which was national of enemy country, dissolve and transfer activities, that Departments of State, Treasury, and Justice had notice of organization's compliance with such advice, and that Secretary of the Treasury had approved several checks drawn on fund after its transfer, did not waive requirements of Ex.Ord.No.8389, set out as a note under section 95a of Title 12, conditioning transfer of enemy national's property upon authorization by Secretary of the Treasury. *Schuhmacher v. Brownell*, C.A.Pa.1954, 210 F.2d 14.

73. — Royalty payments

The Alien Property Custodian is authorized to relieve licensees and assignees of the obligation to pay royalties, including accrued royalties, under patents where another agency of the United States is required by contract to reimburse the licensees or assignees for such royalty payments, and his authority to do so is not conditioned upon a surrender by the licensees or assignees of their exclusive rights. 1944, 40 Op. Atty. Gen. 338.

74. Search and seizure

Where search warrant issued by United States Commissioner was directed solely to medicinals and herbs made in China, there was no crime committed on premises where search took place, there was no arrest of anyone on premises and it appeared that at least five customs agents had searched premises for nearly four hours, that file cabinets were searched and that file of letters taken from bookcase contained letter which mentioned herb, there was an unreasonable general search of premises for something not described in search warrant, and letters mentioning shipments to defendant of herbs and medicines were not admissible in prosecution for violation of section 1 et seq. of this Appendix. *Woo Lai Chun v. U. S.*, C.A.Cal.1960, 274 F.2d 708, 79 A.L.R.2d 999.

Books and records of Japanese enemy aliens in the lawful possession of officers of the United States, although they did not prove to have any invisible writing

in them or relate to any prohibited trading with foreign countries, if they disclosed some other crime, could be used to prove such offense. *Shinyu Noro v. U. S.*, C.C.A.Fla.1945, 148 F.2d 696, certiorari denied 66 S.Ct. 25, 326 U.S. 720, 90 L.Ed. 426.

The ratification by Congress of searches by Treasury agents on day following Japanese attack on Pearl Harbor of premises occupied by citizens of Japan and seizure of their books and papers made searches and seizures good from beginning. *Id.*

75. Evidence—Admissibility

In prosecution of corporation and its treasurer for knowingly and willfully making false statements in certificates with which corporation, under its license to purchase gold for manufacture of jewelry obtained gold allegedly not used in manufacture of jewelry, alleged fact that arrest of treasurer by secret service agent without a warrant was unlawful was not ground for suppression of evidence, where it did not appear what, if anything, was taken from treasurer at time of his arrest, and nothing so taken was offered or received in evidence. *U. S. v. Sheba-Bracelets, Inc.*, C.A.N.Y.1957, 248 F.2d 134, certiorari denied 78 S.Ct. 330, 355 U.S. 904, 2 L.Ed.2d 259.

In prosecution of corporation and its treasurer for knowingly and willfully making false statements in certificates with which corporation, under its license to purchase gold for manufacture of jewelry, obtained gold allegedly not used in manufacture of jewelry, fact that Treasury agents allegedly obtained knowledge that person, to whom corporation claimed to have sold jewelry, was a fictitious person, by allegedly unlawful search and seizure, would not preclude the government from using information later obtained from another source that such person was a fictitious person. *Id.*

In prosecution for conspiracy to violate subsec. (b) of this section and Ex.Ord. No.6230, set out as a note under section 95a of Title 12, and regulations issued and promulgated thereunder, wherein defendant testified that after he had given testimony before the grand jury, he was excused by the grand jury, and that he went home, and that he was then left alone, trial court did not abuse its discretion in ruling out testimony of defendant that after he had concluded his

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testimony before the grand jury the Assistant United States Attorney allegedly threatened defendant. U. S. v. Lieblich, C.A.N.Y.1957, 246 F.2d 890, certiorari denied 78 S.Ct. 271, 355 U.S. 896, 2 L.Ed.2d 194.

In prosecution for conspiracy to violate subsec. (b) of this section and Ex.Ord. No.6260, set out as a note under section 95a of Title 12, and regulations issued and promulgated thereunder, wherein there was evidence as to the existence of a conspiracy and participation of defendant therein, evidence to what was done or said by defendant's alleged co-conspirators in furtherance of the alleged conspiracies was admissible against defendant. Id.

In prosecution for conspiracy to violate subsec. (b) of this section and Ex.Ord. No.6260, set out as a note under section 95a of Title 12, and regulations issued and promulgated thereunder, wherein defendant had testified that he was a dealer in platinum and not a dealer in gold, it was proper for the prosecution to introduce in rebuttal testimony that defendant had been told by alleged co-conspirator to say that defendant had sold platinum instead of gold, if defendant was afraid of getting in trouble. Id.

In prosecution for conspiracy to export gold bullion, admission of conversations between two coconspirators after third coconspirator's arrest with regard to instructions from accused as to what to do and say to authorities if questioned, and to facts that accused had put up money for coconspirator's bail, was not erroneous on theory that with the arrest conspiracy ended, where statements were made with accused's authority and evidence disclosed that accused had assured coconspirator at time they were planning smuggling operation that if coconspirator were apprehended accused would take care of everything. U. S. v. Brecher, C.A.N.Y.1957, 242 F.2d 642.

In prosecution of newspaper corporation, one who was editor of its newspaper and chairman of its board of directors, and others for violation of this section and Treasury Regulations 31 CFR § 500.101 et seq., enacted pursuant thereto by engaging in financial transactions involving interests in Communist China, corporation's books detailing such transactions were admissible in evidence against defendant editor and chairman. U. S. v. China Daily News, C.A.N.Y.1955,

224 F.2d 670, certiorari denied 76 S.Ct. 138, 350 U.S. 885, 100 L.Ed. 780.

In prosecution for willfully, unlawfully and knowingly acquiring gold coins of the United States without a license in accordance with Ex.Ord.No.6260, as amended, that evidence was admitted properly to show the connection between certain gold coins having been acquired by the defendant, and admitted to have been acquired by him, established the "corpus delicti" sufficient to justify the admission into evidence of photograph of the gold coins, the possession of which defendant was alleged to have acquired. Farber v. U. S., C.C.A.Cal.1940, 114 F.2d 5, certiorari denied 61 S.Ct. 173, 311 U.S. 706, 85 L.Ed. 458.

76. — Sufficiency

On the government's concession, which was accepted by the Supreme Court, that petitioner's conviction of conspiracy with unknown Nazi agents to export gold and to commit counterfeiting offenses could not stand because of failure to prove contacts with such agents, conviction was reversed. Bates v. U. S., 111.1944, 65 S.Ct. 15, 323 U.S. 15, 89 L.Ed. 13.

Evidence sustained conviction for conspiracy to engage in transactions in fine gold in violation of subsec. (b) of this section and Ex.Ord.No.6260, set out as a note under section 95a of Title 12, and regulations issued and promulgated thereunder. U. S. v. Lieblich, C.A.N.Y. 1957, 246 F.2d 890, certiorari denied 78 S. Ct. 271, 355 U.S. 896, 2 L.Ed.2d 194.

In prosecution for unlawfully acquiring, holding and transporting gold bullion, whether exhibits relied on by prosecution constituted gold bullion was a question of fact under the expert testimony, and evidence would support finding that exhibits contained gold bullion. Mays v. U. S., C.A.Cal.1956, 233 F.2d 200.

Evidence sufficiently established willful and knowing violation of this section and Treasury Regulations 31 CFR § 500.101 et seq., thereunder by corporation publishing newspaper and editor thereof in extending credit to Communist controlled Hong Kong banks and receiving payments therefrom for advertisements in newspaper and by such corporation's stockholders and directors in sending checks to relatives and acquaintances in China. U. S. v. China Daily News, C.A. N.Y.1955, 224 F.2d 670, certiorari denied 76 S.Ct. 138, 350 U.S. 885, 100 L.Ed. 780.

Evidence was sufficient to sustain conviction for conspiring to possess and export quantities of fine gold. U. S. v. Parnes, C.A.N.Y.1954, 210 F.2d 141.

Evidence sustained conviction for willfully possessing gold bullion without a license in violation of Ex.Ord.No.6260, set out under section 95a of Title 12, and issued pursuant to this section. U. S. v. Chabot, C.A.N.Y.1951, 193 F.2d 287.

Evidence supported conviction of conspiracy to defraud the United States, based on attempted transfer of bank account and securities of nationals of Belgium or France in violation of Ex.Ord. No.8389, set out as a note under section 95a of Title 12, "freezing" property of such nationals. U. S. v. Moran, C.C.A.N. Y.1945, 151 F.2d 861, 167 A.L.R. 403.

Record was not sufficient to sustain conviction of conspiracy to acquire gold without a license. U. S. v. Bates, C.C.A. 111.1945, 148 F.2d 907.

Where indictment charged one conspiracy to acquire gold bullion, to earmark it for export to enemy countries, to export it to Germany all without license, to counterfeit coins and to have possession of dies for such counterfeiting, the Circuit Court of Appeals had determined that evidence would support conviction only of a conspiracy to export gold to Nazi agents, and in Supreme Court government had conceded that conviction could not be sustained on the ground that defendant had conspired to export gold to Nazi agents, conviction was required to be reversed. Id.

Evidence supported conviction of individual defendant and corporate defendant which was organized by individual defendant of conspiring to bring to United States diamonds that were cut in Holland or Belgium under false declaration that they were cut in Germany and to cause diamonds to be paid for without securing requisite license therefor. U. S. v. Von Clemm, C.C.A.N.Y.1943, 136 F.2d 968.

Evidence sustained conviction for willfully, unlawfully and knowingly acquiring gold coins of the United States without a license in accordance with Ex.Ord. No.6260, as amended. Farber v. U. S., C.C.A.1940, 114 F.2d 5, certiorari denied 61 S.Ct. 173, 311 U.S. 706, 85 L.Ed. 458.

Evidence supported finding that there was nothing to prevent officers of bank

dominated by Japanese nationals from applying for special license to operate outside freeze order upon outbreak of war to permit payment of creditors, and supported conclusion that failure to apply showed an absence of "good faith" within subsec. (b) (2) of this section declaring that no person shall be held liable in court in respect to anything omitted in good faith in connection with administration of provisions of the section. Paramount Pictures v. Clark, 1949, 209 F.2d 968, 93 Cal.App.2d 768, certiorari denied 70 S.Ct. 838, 839, 339 U.S. 953, 94 L. Ed. 1366.

77. — Examination of witnesses

In prosecution for conspiracy to export gold bullion, permitting government to elicit from coconspirator that he had made a notation in his address book that he had purchased gold from accused was not error where it was accused's counsel who, for purpose of impeaching coconspirator by reading from record of first trial, first referred to records of gold purchases made by coconspirator, so that redirect examination was necessary to place in context testimony on first trial which had been read on cross-examination. U. S. v. Brecher, C. A.N.Y.1957, 242 F.2d 642.

In prosecution for possession and retention of an interest in gold bullion without a license, District Court's refusal to declare a mistrial because United States attorney asked a defense witness whether witness did not testify in a recent state murder trial that he had purchased a stolen ring from the defendant was not error, where witness answered in the negative and no attempt was made to impeach him. U. S. v. Levy, C. C.A.N.Y.1943, 137 F.2d 778.

78. Production of documents

Where Foreign Assets Control Division commenced an investigation of corporation and in connection therewith the corporation's vice president and director gave the division's agents an affidavit disclosing corporation's transactions with a Holland concern and a Canadian concern, the division, in the course of its investigation to determine whether such transactions concerned prohibited trading in merchandise originating in Communist China or North Korea, could require the production of the corporation's records of such transactions, and this was so even though the records may have

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been the subject of an illegal search and seizure by the division's agents. *Wagman v. Arnold*, C.A.N.Y.1958, 257 F.2d 272.

An administrative subpoena to make records available for examination issued by the Foreign Assets Control Division, of the Treasury Department which were sought as part of an investigation by the Division with respect to the prohibited importation of articles from Communist China and which related to matters referred to by an importer in his affidavit was authorized. *Wagman v. Arnold*, D.C.N.Y. 1957, 152 F.Supp. 637, affirmed in part, reversed in part on other grounds 257 F.2d 272.

A corporation organized to raise funds for benefit of Chinese Industrial Co-operatives which had applied for a permit to send funds from the United States to Communist China was properly required by order of court at instance of Treasury Department to produce all documents relating to corporate transactions subject to regulations issued under subsec. (b) of this section. In re *Indusco, Inc.*, D.C.N.Y.1953, 15 F.R.D. 7.

A corporation ordered by court to produce all documents relating to transactions subject to regulations issued under subsec. (b) of this section providing for investigation, regulation, etc., of transactions in foreign exchange, exportation of gold, silver, currency, securities, etc., could not limit production to those portions of documents which corporation deemed within the scope of this section. *Id.*

79. — Letters and correspondence

Under order of court requiring corporation to produce all documents relating to transfer of funds to Communist China, corporation should produce letters from two persons in China, which were kept in corporate files, contained internal references to corporate affairs and clearly formed part of a chain of corporate correspondence and of a course of conduct of corporate business, though such letters were in the possession of secretary of corporation who claimed for herself the privilege against self-incrimination with respect to such letters. In re *Indusco, Inc.*, D.C.N.Y.1953, 15 F.R.D. 7.

80. — Exclusion of portions

Under order requiring corporation to produce all documents relating to trans-

fer of funds to Communist China, government was entitled to production of complete documents relevant to lawfully authorized inquiry without exclusion by corporation of parts of documents dealing with corporate finances, persons connected with corporation, other organizations aiding projects in China, internal affairs of corporation or ideas and beliefs of writer or different personalities, since such matters might help in checking other facts or in discovery of other transactions and would aid in understanding nature of transactions. In re *Indusco, Inc.*, D.C.N.Y.1953, 15 F.R.D. 7.

81. Questions considered

Where indictment charged defendants with violating regulation prohibiting the unauthorized importation of hog bristles from China under this section authorizing President to prohibit importation of property in which any foreign country or national thereof has any interest, issue was whether goods were of Chinese origin and not when they originated from China. *U. S. v. Broverman*, D.C.N.Y.1959, 180 F.Supp. 631.

On claim of alleged nonenemy stockholder in Swiss corporation, that he had an interest, entitled to protection, in corporation's assets which had been vested by Allen Property Custodian as enemy-owned property, district court would hear evidence and argument as to whether stockholder actually had acquired non-enemy status and was free of enemy taint, and if so, additional evidence to provide basis for determination as to value of stockholder's interest. *Uebersee Finanz-Korporation, A. G. Liestal, Switzerland v. Brownell*, D.C.D.C.1954, 121 F.Supp. 420.

82. — Judicial questions

Whether Executive Order of 1933 regulating the boarding, earmarking and export of gold bullion, etc. and providing for punishment of willful violating of order by fine or imprisonment, was still in effect at time of alleged violation of order on February 12, 1954, or whether the national emergencies which gave rise to order and made continued enforcement thereof valid had ceased was a question for district court in prosecution for unlawful possession of gold bullion. *Bauer v. U. S.*, C.A.Wash.1957, 244 F.2d 794.

83. — Jury questions

In prosecution for conspiracy to export gold bullion, the credibility and weight to be given to conspirator's testimony were for jury. *U. S. v. Brecher*, C.A.N.Y.1957, 242 F.2d 642.

In prosecution for willful possession and retention of an interest in gold bullion without a license, whether bars of melted scrap jewelry of solid gold, gold plate, and gold filled constituted gold bullion within subsec. (b) of this section, and Ex.Ord.No.6102, and Ex.Ord.No.6260, set out as notes under section 95a of Title 12, issued thereunder, was for jury under conflicting evidence. *U. S. v. Levy*, C.C.A.N.Y.1943, 137 F.2d 778.

In gold laws violation case, there was sufficient evidence to take to jury counts charging misrepresentations on end-use certificates for semi-processed gold. *U. S. v. Carroll*, D.C.N.Y.1956, 144 F.Supp. 939.

84. Instructions to jury

In prosecution for unlawfully acquiring, holding and transporting gold bullion, instruction that it had to be proven that particular exhibits were gold bullion, was adequate to inform jury of their duty to determine whether exhibits contained gold bullion. *Mays v. U. S.*, C.A.Cal.1956, 233 F.2d 200.

In prosecution for possession and retention of an interest in gold bullion without a license, refusal to give requested instructions that accused must have acted willfully and knowingly was not error, where court charged that a willful intent was an essential ingredient of the crime. *U. S. v. Levy*, C.C.A.N.Y.1943, 137 F.2d 778.

In prosecution for willfully, unlawfully and knowingly acquiring gold coins of the United States without a license in accordance with Ex.Ord.No.6260, as amended, subject matter of requested instruction that if jury found that the gold coin mentioned in the indictment was gold coin of recognized special value to collectors of rare and unusual coin, jury should acquit defendant, was sufficiently covered by instruction given so that failure to give requested instruction was not error. *Farber v. U. S.*, C.C.A.Cal.1940, 114 F.2d 5, certiorari denied 61 S.Ct. 173, 311 U.S. 706, 85 L.Ed. 458.

85. Judgment

A judgment against Superintendent of Banks as liquidator of New York agency of Japanese bank, on draft drawn by Japanese Bank, should provide that payment of judgment should be made only after obtaining license required by Ex. Ord.No.8389, set out as note under section 95a of Title 12. *Cable & Wireless v. Yokohama Specie Bank*, 1948, 79 N.Y.S.2d 597, 191 Misc. 567.

86. — Consent decree

Fact that corporation, claiming as owner a foreign merchant vessel requisitioned by United States, was an alien enemy within meaning of section 2 of this Appendix, did not preclude entry of a consent decree in a libel filed against the fund deposited with the United States upon requisitioning of the vessel. *The Rita Maersk*, D.C.Mass.1943, 52 F.Supp. 56.

87. — Sentences

Imposition of four-year imprisonment term, within statutory limits, concurrent with three-year sentence then being served, on defendant convicted on guilty plea of conspiracy to import gold into United States was not excessive. *U. S. v. Lester*, C.A.N.Y.1964, 328 F.2d 971.

88. Injunctions

Mining company was not entitled to enjoin threatened prosecution against it for violation of gold hoarding orders issued by President and Acting Secretary of Treasury where only property involved was one lot of gold bullion, only right asserted to was to receive \$34.06 per ounce instead of \$20.67 per ounce as offered by Secretary of Treasury, Secretary's right to require delivery of bullion, provided just compensation was paid, was not questioned and only one prosecution was threatened, since there was no sufficient showing that business of mining company would be interfered with or injured. *Argonaut Mining Co. v. McPike*, C.C.A.Cal.1935, 78 F.2d 584.

Reviewing court, in determining whether mining company was entitled to injunction against prosecution for violation of gold hoarding orders issued by President and Acting Secretary of Treasury, was not bound by general allegations in bill that prosecution would involve plaintiff in multiplicity of legal proceedings and would involve destruction of its

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business and property, thereby causing it irreparable damage, which were mere conclusions, unsupported by allegations of fact. Id.

## 89. Interest

Where delay in paying draft out of assets of Japanese bank's New York agency in liquidation was not in fact caused by Ex.Ord.No.8389, set out as note under section 95a of Title 12, requiring license for payment, but by position, erroneously taken by Superintendent of Banks, that the claim was not entitled to payment, existence of the Ex.Ord. did not preclude allowance of interest on the draft. *Cable & Wireless v. Yokohama Specie Bank*, 1943, 79 N.Y.S.2d 587, 161 Misc. 567.

Where payment of claim of Iranian bank against assets of New York agency of Japanese bank had expressly been made conditional upon authorization of United States Treasury Department, liability for interest on claim did not arise until after Treasury authorization had been secured. *Banque Mellie Iran v. Yokohama Specie Bank*, 1949, 85 N.E.2d 906, 299 N.Y. 139, affirmed 70 S.Ct. 903, 339 U.S. 841, 94 L.Ed. 1323.

## 90. Res Judicata

Where Supreme Court affirmed judgment that Swiss corporation was so affected with "enemy taint" as to bar it from recovering assets vested by Alien Property Custodian as enemy-owned property, but vacated the judgment in part so that court might give consideration to any application made on behalf of an alleged nonenemy stockholder in such corporation, the affirmed portion of the judgment was binding on the stockholder in respect of all issues which had been litigated and determined, insofar as he was in privity with the corporation as to such issues. *Uebersee Finanz-Korporation, A. G. Liestal, Switzerland v. Brownell*, D.C.D.C.1954, 121 F.Supp. 420.

Where controlling stockholder of Swiss corporation—actively controlled, participated and assisted in suit by corporation to recover assets vested by Alien Property Custodian as enemy-owned property, stockholder was in privity with corporation in such action, and, in proceedings upon his subsequent claim that he himself was a neutral, and that his interests were accordingly entitled to protection, judgment denying recovery to corporation

would be res judicata, in so far as issues presented were identical. Id.

## 91. — Estoppel

Where, in action by Swiss corporation to recover assets vested by Alien Property Custodian as enemy-owned property, interest, status and activities of alleged nonenemy stockholder in such corporation were considered insofar as they were necessary to determine that the neutral aspect of ownership in property sought to be recovered was insignificant, findings and conclusions of district court, affirmed on appeal, operated as an estoppel, in subsequent proceedings upon claim of stockholder, as to all issues framed, without prejudice to right of either party to offer additional evidence on issues raised supplemental to, but not contradictory of, such determinations. *Uebersee Finanz-Korporation, A. G. Liestal, Switzerland v. Brownell*, D.C.D.C.1954, 121 F.Supp. 420.

## 92. Review

Where claims were asserted against assets of New York agency of Japanese bank, and assets were in hands of statutory bank liquidator and were also frozen alien property, and New York Court of Appeals determined that, under *McKinney's N.Y. Banking Law*, § 606, transactions upon which claims were based gave rise to preferred claims in the liquidation, and New York court rendered judgments for claimants but conditioned enforcement of claims upon licensing by the Alien Property Custodian, and at time judgments were entered no licenses had been issued to claimants, judgments did not interfere with paramount federal control over alien property, and would be affirmed. *Lyon v. Singer*, N.Y.1950, 70 S.Ct. 903, 339 U.S. 841, 94 L.Ed. 1323.

Court of Appeals would not presume to contradict executive determination that, in action against Rumanian bank for conversion of gold deposited with it for safe-keeping by Polish bank, the levies of attachment against deposits of the Rumanian bank in New York banks did not offend any national policy implied by Ex.Ord.No.8389, amended by Ex.Ord. No.8565, set out as a note under section 95a of Title 12, freezing foreign funds in United States. *Commission for Polish Relief v. Banca Nationala A Rumaniel*, 1942, 43 N.E.2d 345, 288 N.Y. 332.

## 93. — Crimes

Where it appeared on appeal from conviction for possession of gold bullion in violation of Executive Order of 1933 providing for punishment of willful violation of order by fine or imprisonment, that question of whether such order was in effect at time of alleged commission of offense on February 12, 1954, had been presented to district court as question of law but not determined, reviewing court would not set aside conviction, but would remand cause to district court with directions and with power to vacate judgment, grant a new trial and take evidence or other action. *Bauer v. U. S.*, C.A.Wash.1957, 244 F.2d 794.

Whether defendants, convicted of violating this section and Treasury Regulations 31 CFR § 500.101 et seq., enacted pursuant thereto by engaging in financial transactions involving interests in Communist China, planned extensive siphoning of funds from United States into China, and strict enforcement of law by imposition of heavy sentences was required to deter Chinese community in general from further violating this section and Regulations, were matters within district judge's discretion, which Court of Appeals is not authorized to review on appeal from convictions. *U. S. v. China Daily News*, C.A.N.Y.1955, 224 F.2d 670, certiorari denied 76 S.Ct. 138, 350 U.S. 885, 100 L.Ed. 780.

## 94. — Discretion, administrative

In suit to require the release of cassia and permit its entry into the United

States, whereunder this section, cassia, a product traditionally imported from China was excluded from the United States unless it originated in certain countries, where cassia was examined in the same manner as that of other importers and the same situation, denial of reclassification and re-examination of cassia was not unreasonable or arbitrary. *Landes v. Humphrey*, 1957, 246 F.2d 703, 101 U.S.App.D.C. 16.

## 95. — Record

In actions to collect from a state statutory bank liquidator claims which were allegedly entitled to a preference under *McKinney's N.Y. Banking Law*, § 606 and which arose from transactions with New York Agency of Japanese bank whose assets constituted frozen alien property, record supported determination that no licenses had been issued to claimants by the Alien Property Custodian. *Lyon v. Singer*, N.Y.1950, 70 S.Ct. 903, 339 U.S. 841, 94 L.Ed. 1323.

Record failed to show any duress in procuring settlement releases as would justify abrogation of settlement and vacation of judgment dismissing action for return of stock in a New York corporation, which had been vested in alien property custodian as the property of an enemy corporation. *Halback v. Markham*, D.C.N.J.1952, 106 F.Supp. 475, affirmed 207 F.2d 503, certiorari denied 74 S.Ct. 628, 347 U.S. 933, 98 L.Ed. 1084.

## § 6. Alien Property Custodian; general powers and duties

The President is authorized to appoint and prescribe the duties of an official to be known as the alien property custodian, who shall be empowered to receive all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this Act [sections 1-6, 7-39 and 41-44 of this Appendix]; and to hold, administer, and account for the same under the general direction of the President and as provided in this Act [said sections]. The alien property custodian shall give such bond or bonds, and in such form and amount, and with such security as the President shall prescribe. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other em-

Authority NND 968103By WDP/NARA Date 2/29/00

|       |                     |
|-------|---------------------|
| RG    | <u>131</u>          |
| Entry | <u>FFC General</u>  |
| File  | <u>Gen Lic # 94</u> |
| Box   | <u>164</u>          |

TREASURY DEPARTMENT  
Washington

FOR RELEASE, MORNING NEWSPAPERS

Friday, December 7, 1945Press Service  
No. V-155 ✓

A sweeping relaxation of the freezing control was just announced by Secretary Vinson. Under General License No. 94 issued today, all countries except Portugal, Spain, Sweden, Switzerland, Liechtenstein, Tangier and, of course, Germany and Japan will hereafter be treated in practically all respects as non-blocked countries under the freezing Order. All controls are removed over current transactions with the countries covered by the new general license. Americans may hereafter engage in financial and commercial transactions with persons in these countries as freely as with persons in Great Britain, Canada, or other countries of the Western Hemisphere. However, existing blocked accounts of persons within the licensed countries are not freed by this license.

The Treasury action did not change the status under the freezing Order of Portugal, Spain, Switzerland, Sweden and Liechtenstein. These countries cannot be accorded the privileges being made available to other countries until they have taken effective action to search out, immobilize, and control all enemy assets within their jurisdiction, and until a satisfactory solution has been reached concerning the disposition of these enemy assets.

Treasury officials explained that controls over existing blocked accounts of persons within the licensed countries remain in effect for the time being in order to ensure that camouflaged enemy assets are not released. General licenses have already been issued to France and Belgium which provide for the certification by French and Belgian authorities of blocked property after their investigation has shown that the property is actually French or Belgian owned. Property so certified is no longer regarded as blocked property. Negotiations similar to those which preceded the issuance of the general licenses to France and Belgium are under way with other liberated countries. It is expected that licenses will shortly be issued to provide for the certification and release of their property. Blocked Italian, Bulgarian, Hungarian and Rumanian property is in a separate category because of the declaration of war by the United States against those countries.

The Secretary emphasized that the general license issued today permits the immediate resumption of normal financial and commercial relations with the licensed countries so far as the freezing regulations are concerned. United States banking facilities may be used to finance

226941

DECLASSIFIED  
Authority NND80211  
By Jed NARA Date 4-10

RG 59  
Entry DECIMAL FILE  
File 1940.44  
File 854.515  
Box 5283

DEPARTMENT OF STATE  
RECEIVED  
DEC 20 1942  
COMMUNICATIONS AND RECORDS  
SAFE HAND

RECEIVED  
DEC 18 1942  
DEPARTMENT OF STATE

BRITISH EMBASSY  
WASHINGTON, D.C.

15th December, 1942.

SD-231

DIVISION OF  
EUROPEAN AFFAIRS  
*W*

Dear Mr. Reinstein,

You may be interested to hear that we have seen a report from our Legation at Berne to the Ministry of Economic Warfare to the effect that by a Federal decree there has been introduced in Switzerland as from 7th December a control of imports and exports of gold. The decree also fixes maximum prices for gold bars and Swiss and Foreign coins.

I am also sending this information to Mr. Pehle.

Yours sincerely,

*W. Ritchie*  
W. Ritchie.

Mr. J. J. Reinstein,  
U. S. Department of State,  
Washington,  
D.C.

DEC 26 1942  
FILED  
FOREIGN FUNDS CONTROL DIVISION  
DEC 18 1942  
DEPARTMENT OF STATE

854.515/66

PS/VGG

226942

99

RG NON-RECORD  
 Entry REF MASEN 115  
 OF FEB 1936  
 File BANK NY  
 BINDER # 1  
 Box BOX # 1

Paul Hechler, Assistant General Manager,  
 of the BANK FOR INTERNATIONAL SETTLEMENTS  
 BASLE

(temporarily at Château-d'Oex)  
 BASLE.

19th September 1940.

*Hechler*  
*re.*  
 1102654  
 Mr. Sproull  
 Mr. K. K. K.

Allan Sproull, Esquire,  
 Federal Reserve Bank of New York,  
 New York.

My dear Mr Sproull,

X  
 I am much obliged to you for your letter of 1st August (also to Kindleberger for the trouble he has taken) and for the information concerning the facts which have led to the placing of a holding on the account of the Bank for International Settlements with the Federal Reserve Bank of New York in connection with the law suit Jarislawski v. Reichsbank.

The procedure you outline is not really very different from what might be expected under similar circumstances in other countries. There are, however, some points which our bank, as well as the Deutsche Reichsbank, with whom I had an opportunity to discuss the matter during my last stay in Berlin, find somewhat out of the ordinary.

First of all, we have been rather annoyed to see the B.I.S. involved in a law suit with which it has nothing whatsoever to do. In our opinion this could have been avoided if the Federal Reserve Bank, at the time it was served with the attachment order against the Reichsbank, had deducted from the items which it had received by order and for account of the Reichsbank the appropriate amount and placed it to a suspense account, instead of crediting all amounts indifferently to the account of the B.I.S. and blocking this account subsequently with the amount to be attached. Then again, the amounts which have been blocked appear to us rather high. The sum claimed by the Sheriff was \$11,276.74, to which has to be added \$832.32 in respect of interest, as well as probable costs. These costs have been valued by your bank at 100% of the capital sued for, plus interest, making a total of \$24,218.12 which has been blocked on our account. It is true, the procedure followed seems to be in accordance with the practice in the State of New York, since in another case your institution also blocked twice the amount claimed (your cable No. 395 of 14th June, 1940

226943

RG NON-RECORD  
 Entry REF MATERIALS  
 OF FEB 1934  
 13 APR 1941  
 File BINDER # 1  
 Box BOX # 1

Allan Sproul, Esquire,

- 2 -

19th September 1940.

re the National Bank of Hungary).

However, soon after the \$24,218.12 had been blocked on our account an additional holding of \$25,000 was placed by your bank on the Reichsbank's own account, bringing the amount withheld up to four times the capital claimed.

It is a universally accepted principle that a creditor must not unduly harass or embarrass his debtor. Even where his claim is uncontested he can only demand cover for the amount claimed plus interest and probable costs. In the case under review the claim is not admitted, on the contrary, it has been denied and disallowed by the Court in first instance. Further the account attached is not that of the debtor but belongs to a third party unconnected with the case. Why should the plaintiff under these special circumstances be entitled to a multiple of the security which a creditor can normally demand? Moreover, it would appear that the double blocking was not effected by an order of the Court or at the request of the plaintiff but on the initiative of the Federal Reserve Bank, on the ground that it could not assume the risk of determining which of the items withheld by it were properly attached. In our view, however, no necessity for such a determination has arisen, as the Reichsbank itself fully admits that the amount blocked on its own account has been properly attached. For this reason we really do not understand why our request and that of the Reichsbank to release our account from the holding were not acceded to and why funds equalling four times the amount claimed should remain immobilised. In our opinion it ought surely to suffice if, as was done in a similar case, the amount claimed, plus costs, were deposited with the Court (see your cable No.446 of 11th July, 1940, re National Bank of Hungary). In any case, it would be appreciated by the B.I.S., as well as by the Reichsbank, if through your kind assistance the situation could be alleviated.

Considering the problem further from the point of view of international payments, I should like to emphasise that in all countries with foreign exchange regulations the Central Bank has to administer all foreign assets of the whole national economy, and that, therefore, the balances maintained with its foreign correspondents are mainly reserved for making current payments. The orderly settlement of ordinary commitments may, however, be seriously disturbed, to the detriment of the creditor country, if too severe a procedure is applied with respect to attachments, especially if amounts remain blocked, as it happens to be in our case, during many months.

I hope you do not mind my putting my misgivings fairly and squarely before you. I feel sure that it is equally

226944

BOX  
RG NON-RECORD  
Entry REF MATERIALS  
OF FEB 1934  
File BINDER #1  
Box BOX #1

Allan Sproul, Esquire,

- 3 -

19th September 1940.

important for you to learn what effects your measures have at this end, as it is interesting for us to know what principles you are following in connection with attachments in order to safe-guard your own interests.

Yours faithfully,

*Paul Hechler*  
Paul Hechler.

226945

RG NON-RECORD

Entry REF M10000115  
OF FEBRUARYFile BANK NY  
BINDER # 1

Box BOX # 1

Paul Hechler, Assistant General Manager,  
of the BANK FOR INTERNATIONAL SETTLEMENTS  
BASLE

1102651

(temporarily at Château-d'Oex)

BASLE.

19th September 1940.

Allan Sproul, Esquire,  
Federal Reserve Bank of New York,  
New York.

My dear Mr Sproul,

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226946

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BOX  
 RG NON-RECORD  
 Entry REF ID: A66115  
 OF FEB 03 1940  
 FILE BANK NY  
 BINDER # 1  
 BOX # 1

Allan Sproul, Esquire,

- 2 -

19th September 1940.

re the National Bank of Hungary).

However, soon after the \$24,218.12 had been blocked on our account an additional holding of \$25,000 was placed by your bank on the Reichsbank's own account, bringing the amount withheld up to four times the capital claimed.

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I hope you do not mind my putting my misgivings fairly and squarely before you. I feel sure that it is equally

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00000254

BOX  
RG NON-RECORD  
Entry REF MESSAGES  
OF FEB 1934  
File BINDER # 1  
Box BOX # 1

Allan Sproul, Esquire,

- 3 -

19th September 1940.

important for you to learn what effects your measures have at this end, as it is interesting for us to know what principles you are following in connection with attachments in order to safe-guard your own interests.

Yours faithfully,

*Paul Hechler*  
Paul Hechler.

226948

RG NON-RECORD  
 Entry REF ID: A601715  
 OF FED RESV  
 13 APR 1941  
 File BINDER # 1  
 Box Box # 1

Thirty Three Liberty Street  
 New York

X 856 -  
 Germany Reichsbank

Air mail

August 1, 1940.

Herr Hechler,  
 Care of Bank for International Settlements,  
 Chateau d'Oex,  
 Switzerland.

ALL 7/19/40

My dear Hechler:

A few days ago we had the pleasure of a visit from Mr. Kindleberger, who told us something of your work and experiences during the past year. He also referred to a conversation with you just before he left the Bank for International Settlements, in which he said you asked him to pass on to me a request that I write you regarding the attachment of funds in the Bank for International Settlements account on our books in connection with a suit against the Reichsbank.

In our cable No. 61 of January 23, 1940, we advised the Bank for International Settlements of credits made that day to the Bank for International Settlements account B by order and for account of the Reichsbank, and stated that for our protection we were placing a hold on \$24,218.12 against the Bank for International Settlements account because of an attachment which had been served on us that day in a suit against the Reichsbank. This hold is the only one in effect at this bank against the Bank for International Settlements account by reason of attachments in suits against the Reichsbank. In our cable No. 89 of February 2, 1940, in response to Bank for International Settlements cable No. 62 of February 2, 1940, we pointed out that we could not assume the risk of determining whether the items or proceeds thereof held or in process of collection for the Reichsbank were properly attached, and confirmed that for our protection we felt it necessary to continue this hold against the Bank for International Settlements account.

I think it may assist you to understand why we have felt it necessary to continue this hold against the Bank for International Settlements account if I explain to you that the form of warrant of attachment which the Sheriff

226949

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NON-RECORD

Entry

REF. MATERIALS  
OF FED. RES. SV.

File

BANK OF AMERICA  
BINDER # 1

Box

BOX # 1

-2-

Herr Hechler.

serves upon banks in cases of this kind does not specify what property is attached, but recites, in effect, that all property or interest therein belonging to the defendant (the Reichsbank in this instance) in the possession of the bank is attached. The attorneys for a defendant with respect to whose property a warrant of attachment has been issued may ask the court to issue an order releasing a part of the property attached, on the ground that it is more than is necessary to assure the payment of the maximum amount that the plaintiff seeks to recover plus interest and expenses, or releasing any property held which said attorneys do not believe to be properly subject to the attachment, or vacating the entire attachment on the ground, for example, that the plaintiff has not stated a cause of action against the defendant of a kind in connection with which an attachment is permissible under our procedure. In the absence of such a court order, however, the bank would be responsible if it should fail to hold property which the court subsequently determined to be property of the defendant or in which the defendant had an attachable interest, and if because of this failure the party bringing the suit in connection with which such warrant of attachment was issued should be unable to collect a judgment rendered against the defendant in such suit.

The attorneys for the Reichsbank have recently informed us that a court order to vacate the attachment was entered on June 17, 1949, but that the actual vacation of the order has been stayed pending appeal, which will probably not be argued until October, and not decided until some time later. It is possible that the decision on the present appeal may not finally decide the matter, as there might conceivably be further appeals or other proceedings. If and when such order to vacate the attachment is made final, the hold of \$24,118.18, to which we have referred, against the Bank for International Settlements account will be released, but in the meantime, of course, it remains in effect.

I think that this is all the information I can give you in response to your request which Mr. Kindleberger passed on to me.

Faithfully yours,

Allan Sproul.

WSL/AS:AM

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*MAR 13*

DECLASSIFIED  
Authority *NN802111*  
By *JW* NARA Date *470*  
RG *59*  
Entry *DECIMAL FILED 1940:44*  
File *854.515*  
Box *5283*

**GOLD  
FOILY  
MIRROR  
IMAGE**

*BIS HOWATE  
mirroring*



THE FOREIGN SERVICE  
OF THE  
UNITED STATES OF AMERICA

DEPARTMENT OF STATE  
MAR 15 1940

AMERICAN LEGATION  
Bern, March 1, 1940.

No. 1261

Subject: Transmission of Memorandum on Annual Reports of the Swiss Banks for 1939.

RECEIVED BY THE LEGATION  
AMERICAN LEGATION  
BERN  
MAR 1 1940

5985  
*LEO*  
*RAO*  
*AG*  
*TA*

*Added to Neutral paper*

854.516/170

DEPARTMENT OF STATE  
ASSISTANT SECRETARY OF STATE  
MAR 1 1940  
*A-M/C*

Assistant Secretary of State  
APR 5 - 1940  
MRS GRADY

RECEIVED  
MAR 13 1940

A-M/C  
RECORDS DEPT  
FILE-C.S.

DEPARTMENT OF STATE  
OFFICE OF THE ADVISER ON INTERNATIONAL ECONOMIC AFFAIRS  
APR 4 - 1940

1940 MAR 15 AM 10 54

The Secretary of State,  
Washington.

Sir:

I have the honor to transmit herewith a memorandum entitled, "Switzerland during 1939 in the Light of the Annual Reports of the Swiss Banks", prepared from data made available in the annual reports of the three large commercial banks and the bank of issue of Switzerland.

Respectfully yours,

*Leland Harrison*  
Leland Harrison

Enclosure:  
Memorandum.

File no. 851.6  
WMC/ra  
In quintuplicate

APR 3 - 1940  
FILED

FP

226951

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| DECLASSIFIED                       | RG 59                     |
| Authority <u>NND802HL</u>          | Entry <u>DECIMAL FILE</u> |
| By <u>JW</u> NARA Date <u>4-10</u> | File <u>854.515</u>       |
|                                    | Box <u>5283</u>           |

25 millions of United States Government paper. The decline of about 10 percent in loans on account, probably is due to the declining demand for private credit which is the concomitant of the increased demand for Governmental credit in a war economy.

Capital and money markets. With the outbreak of war the yield on Governmental loans shot from 3-5/8 in August to nearly 4-1/2 in September, after which time the yield fluctuated downward to about 4-1/4 at the year's end. This rise in the interest rate was due to the unloading of certain quantities of Governmental securities by businesses and persons who desired to increase their cash on hand for any emergency. First-class mortgages tended toward a yield of 4 percent by the year's end. Share prices, which had been declining prior to the war, dropped somewhat more sharply with the outbreak of the war and continued to lose ground until the year's end, reflecting political fears and the discount of the probable effect of events upon the economic life of the nation. In contradistinction to the tightening capital markets, the money market remained easy even after the outbreak of war. The private discount rate for first-class Swiss bank and commercial paper, after having remained at 1 percent during the first eight months of the year, rose only to 1-1/4 percent for the last four months of the year.

The Future. The consequences of the war are looked upon with anxiety. The Société de Banque Suisse expects ever increasing difficulties in international trade and important changes of a financial nature in Switzerland:

*S'Land  
the minor  
projection  
of H. White's  
Blood*

"Indeed, despite all the praiseworthy efforts of recent years, it has not proved possible to put either the federal or cantonal finances in order. Chronic deficits have grown continuously and Parliament seemed to lack the necessary braking power. Indispensable measures to assure a liquidity consonant with mobilization needs were taken, but the state of finances of the Confederation offers no reserves for this purpose."

The more intense devotion to autarchy has disrupted completely the gold standard and consequently the free functioning of the world credit system; this fact, coupled with the turn of events since the outbreak of the war, has placed a great strain on the economy of Europe's traditional neutral countries. As one of the banks expressed it:

*ie  
the economy  
left behind  
by Germany,  
intense use of  
gold - overturns the  
credit system*

"The neutral countries have felt this war earlier than they did the one of 1914-1918 because its economic aspects have come to the fore earlier than was the case during the previous war."

W.M.C.

WMC/ra

226952

2/3

|                                     |                           |
|-------------------------------------|---------------------------|
| DECLASSIFIED                        | RG 59                     |
| Authority <u>NND802111</u>          | Entry <u>DECIMAL FILE</u> |
| By <u>Jed</u> NARA Date <u>4-70</u> | File <u>854.5.15</u>      |
|                                     | Box <u>5283</u>           |

Bank for rediscounts, the movement commenced to reverse itself in late September.

Gold movements. Although the National Bank had lost considerable gold (400,000,000 francs approximately) during the spring war scare (German occupation of Prague and Italian occupation of Albania), and because of heavy purchases abroad of essential raw materials, it lost only very little more (about 40,000,000 francs) with the actual outbreak of war; nevertheless, from the middle of October to December 31 it commenced to lose gradually more of its stock, about 160,000,000 francs during the two and one-half months. To compensate in part for these latter losses were French purchases during October of 75,000,000 Swiss francs to repay certain borrowings in Switzerland. During both the pre-and post-outbreak of war periods the losses were due both to the withdrawal of "fugitive" (hot) money and to the large purchases abroad of war emergency stocks; it is reasonable to suppose that during the post-outbreak of war period the latter reason was the cause of the greater part of the loss, most of the "fugitive" money having already been withdrawn during the spring of the year.

→  
SFS and  
gold  
leaving  
S'land

Foreign trade. With the mobilization on August 28, all frontiers were practically hermetically sealed temporarily and foreign trade greatly diminished; nevertheless, after the initial shock of war, lasting during the greater part of September, the rise in imports recovered and they were during the last four months of the year 26 percent greater than during the corresponding period of 1938; exports, however, declined by 22 percent. The greater imports stimulated bank transactions as many buyers needed help to make the necessary emergency purchases. The Federal Government chartered fifteen ships with a net cargo carrying capacity of 115,000 tons to assure the arrival at neighboring ports of necessary commodities. The Government also assumed originally the insurance risk for transport of certain indispensable commodities, which risk was later extended to cover exportation and the importation of all other commodities. The French and English devaluations in September did not, as would have been the case in peace times, weaken measurably the competitive power of Swiss export industries. The chief factors regulating export today are capacity of absorption of the foreign market and speed of delivery by the exporter. A strong rise of prices abroad in the not too distant future is expected to compensate any exchange advantage acquired by the above-mentioned devaluations.

Bank of Issue. Not all of the 15 percent increase in bank notes in circulation during 1939 represented new paper necessary for the ordinary economic life of the nation; all quarters agree that a good part of it was hoarded. One bank recommends that the hoarded notes be used to buy Government bonds which are to be issued. Although at the end of 1914 credits advanced constituted 44 percent of the total bank notes in circulation, at the end of 1939 they amounted to not quite 10 percent thereof.

226953

DECLASSIFIED  
 Authority NND802114  
 By JW NARA Date 4/10  
 RG 59  
 Entry DECIMAL FILE 1940.44  
 File 854.515  
 Box 5283



THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

5935  
 DIVISION OF EUROPEAN AFFAIRS  
 MAR 15 1940  
 DEPARTMENT OF STATE

AMERICAN LEGATION Bern, March 1, 1940.

No. 1261

ADVISED ON POLITICAL RELATIONS  
 MR. DUNN  
 APR 5 1940  
 DEPARTMENT OF STATE

Subject: Transmission of Memorandum on Annual Reports of the Swiss Banks for 1939.

Assistant Secretary of State  
 APR 5 1940  
 MRS GRADY  
 DEPARTMENT OF STATE  
 ASSISTANT SECRETARY OF STATE  
 MANTON  
 A-M/C

Passport  
 Federal Reserve  
 MAR 19 1940

DEPARTMENT OF STATE  
 1940 MAR 15 AM 10 54

A-M/C  
 RECORDING DESK  
 FILE-C.S.  
 DIVISION OF COMMUNICATIONS AND RECORDS

TRADE AFFAIRS  
 MAR 22 1940  
 DEPARTMENT OF STATE

OFFICE OF THE ADVISER ON INTERNATIONAL ECONOMIC AFFAIRS  
 APR 4 - 1940  
 DEPARTMENT OF STATE

The Honorable  
 The Secretary of State,  
 Washington.

Sir:

I have the honor to transmit herewith a memorandum entitled, "Switzerland during 1939 in the Light of the Annual Reports of the Swiss Banks", prepared from data made available in the annual reports of the three large commercial banks and the bank of issue of Switzerland.

Respectfully yours,

*Leland Harrison*  
 Leland Harrison

Enclosure: Memorandum.

File no. 851.6  
 WMC/ra  
 In quintuplicate

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APR 5 - 1940

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| DECLASSIFIED                      | RG 59                                       |
| Authority <u>NND80211L</u>        | Entry <u>DECIMAL FILE</u><br><u>1940.44</u> |
| By <u>JW</u> NARA Date <u>470</u> | File <u>854.515</u>                         |
|                                   | Box <u>5283</u>                             |

-3-

Bank for rediscounts, the movement commenced to reverse itself in late September.

Gold movements. Although the National Bank had lost considerable gold (400,000,000 francs approximately) during the spring war scare (German occupation of Prague and Italian occupation of Albania), and because of heavy purchases abroad of essential raw materials, it lost only very little more (about 40,000,000 francs) with the actual outbreak of war; nevertheless, from the middle of October to December 31 it commenced to lose gradually more of its stock, about 160,000,000 francs during the two and one-half months. To compensate in part for these latter losses were French purchases during October of 75,000,000 Swiss francs to repay certain borrowings in Switzerland. During both the pre-and post-outbreak of war periods the losses were due both to the withdrawal of "fugitive" (hot) money and to the large purchases abroad of war emergency stocks; it is reasonable to suppose that during the post-outbreak of war period the latter reason was the cause of the greater part of the loss, most of the "fugitive" money having already been withdrawn during the spring of the year.

Foreign trade. With the mobilization on August 28, all frontiers were practically hermetically sealed temporarily and foreign trade greatly diminished; nevertheless, after the initial shock of war, lasting during the greater part of September, the rise in imports recovered and they were during the last four months of the year 26 percent greater than during the corresponding period of 1938; exports, however, declined by 22 percent. The greater imports stimulated bank transactions as many buyers needed help to make the necessary emergency purchases. The Federal Government chartered fifteen ships with a net cargo carrying capacity of 115,000 tons to assure the arrival at neighboring ports of necessary commodities. The Government also assumed originally the insurance risk for transport of certain indispensable commodities, which risk was later extended to cover exportation and the importation of all other commodities. The French and English devaluations in September did not, as would have been the case in peace times, weaken measurably the competitive power of Swiss export industries. The chief factors regulating export today are capacity of absorption of the foreign market and speed of delivery by the exporter. A strong rise of prices abroad in the not too distant future is expected to compensate any exchange advantage acquired by the above-mentioned devaluations.

Bank of Issue. Not all of the 15 percent increase in bank notes in circulation during 1939 represented new paper necessary for the ordinary economic life of the nation; all quarters agree that a good part of it was hoarded. One bank recommends that the hoarded notes be used to buy Government bonds which are to be issued. Although at the end of 1914 credits advanced constituted 44 percent of the total bank notes in circulation, at the end of 1939 they amounted to not quite 10 percent thereof.

226955

National

|                                    |       |                     |
|------------------------------------|-------|---------------------|
| DECLASSIFIED                       | RG    | 59                  |
| Authority <u>NND80211L</u>         | Entry | <u>DECIMAL FILE</u> |
| By <u>JW</u> NARA Date <u>4-10</u> | File  | <u>1940-44</u>      |
|                                    | Box   | <u>854.515</u>      |
|                                    |       | <u>5283</u>         |

-5-

25 millions of United States Government paper. The decline of about 10 percent in loans on account probably is due to the declining demand for private credit which is the concomitant of the increased demand for Governmental credit in a war economy.

Capital and money markets. With the outbreak of war the yield on Governmental loans shot from 3-5/8 in August to nearly 4-1/2 in September, after which time the yield fluctuated downward to about 4-1/4 at the year's end. This rise in the interest rate was due to the unloading of certain quantities of Governmental securities by businesses and persons who desired to increase their cash on hand for any emergency. First-class mortgages tended toward a yield of 4 percent by the year's end. Share prices, which had been declining prior to the war, dropped somewhat more sharply with the outbreak of the war and continued to lose ground until the year's end, reflecting political fears and the discount of the probable effect of events upon the economic life of the nation. In contradistinction to the tightening capital markets, the money market remained easy even after the outbreak of war. The private discount rate for first-class Swiss bank and commercial paper, after having remained at 1 percent during the first eight months of the year, rose only to 1-1/4 percent for the last four months of the year.

The Future. The consequences of the war are looked upon with anxiety. The Société de Banque Suisse expects ever increasing difficulties in international trade and important changes of a financial nature in Switzerland:

"Indeed, despite all the praiseworthy efforts of recent years, it has not proved possible to put either the federal or cantonal finances in order. Chronic deficits have grown continuously and Parliament seemed to lack the necessary braking power. Indispensable measures to assure a liquidity consonant with mobilization needs were taken, but the state of finances of the Confederation offers no reserves for this purpose."

→ The more intense devotion to autarchy has disrupted completely the gold standard and consequently the free functioning of the world credit system; this fact, coupled with the turn of events since the outbreak of the war, has placed a great strain on the economy of Europe's traditional neutral countries. As one of the banks expressed it:

"The neutral countries have felt this war earlier than they did the one of 1914-1918 because its economic aspects have come to the fore earlier than was the case during the previous war."

W.M.C.

226956

MEMORANDUM

May 26, 1945.

To: Ambassador Winant

From: Mr. Taylor

You may be interested in reading the attached excerpts from a recent report by the Federal Reserve Board concerning gold and dollar reserves of foreign countries.

226957

84/350/59/01/04

RG 84 - Am Emb 1938-46 / Entry: ?  
LONDONBox 3 - Winant Records  
File: Memorandums

RG 84 - AmEmb 1938-46 / Entry: ?

LONDON

Box 3 - Warant Records  
File: Memorandums.U.S. OFFICE OF WAR INFORMATION,  
British Division, News Department,  
Room 302, Inveresk House,  
STRAND, W.C.2.

GENERAL

Telephone: TEMple Bar 3590  
Extensions 255, 257, 260  
FOR ADDITIONAL COPIES: Ext. 110.

May 13, 1945

The following was issued to the press on May 12 and is sent to you for your information and use as desired:

U.S. REPORTS THAT FOREIGN GOLD AND DOLLAR RESERVE  
TOTAL 17,500,000,000 dollars.

WASHINGTON, -- The Federal Reserve Board in a report on May 12, analysing the state of international trade and finance said that total estimated gold and dollar reserves of foreign countries amounted to more than 17,500,000,000 dollars at the end of 1944, as compared with 7,000,000,000 dollars in 1928.

"If the position of foreign countries is further strengthened by adoption of the proposals agreed on at Bretton Woods," the report added, "there will be every reason to expect more stability, order, and freedom in international exchange relations in the post-war world."

Excerpts from the report follow:

"The large net payments to foreign countries on account of trade and military expenditures enabled foreign countries to make substantial gold purchases in the United States and at the same time to increase their dollar balances to some extent. The acquisition of gold by foreign countries is the principal factor accounting for the decline in monetary gold stock of the United States by 1,319,000,000 dollars during the year to 20,619,000,000.

"The net effect of other factors affecting the monetary gold stock was insignificant. Since gold under earmark for foreign accounts increased by only 460,000,000 dollars to 3,937,000,000 dollars it is clear that the major part of the gold purchased by foreign countries was exported rather than earmarked for foreign account as has been the practice in recent years.

"Foreign banking funds in the United States increased by only 116,000,000 dollars during 1944 to 5,271,000,000 dollars at the end of the year. Of this amount, 3,010,000,000 was for account of foreign central banks and governments. In contrast to the rapid growth of official funds in recent years, there was a decrease of 89,000,000 in these accounts. Transactions in securities accounted for a further inflow of 313,000,000 dollars. This movement resulted principally from purchases of long-term United States Government securities and foreign bond redemptions.

"Total estimated gold and dollar reserves of foreign countries amounted to more than 17,500,000,000 dollars at the end of 1944 as compared with 7,000,000,000 or 8,000,000,000 in 1928 before the breakdown of the gold standard. If the position of foreign countries is further strengthened by adoption of the proposals agreed on at the International Monetary and Financial Conference at Bretton Woods, there will be every reason to expect more stability, order, and freedom in international exchange relations in the post-war world ....."

Regarding exports, the Board stated:

"The total merchandise exports and export surplus were the largest ever recorded. Merchandise exports amounted to 14,200,000,000 dollars (excluding shipments to our armed forces abroad), imports to 3,900,000,000, and the merchandise export surplus to 10,300,000,000.

Small  
1945  
decline  
in US gold  
reserves

226958

- 2 -

Since Lend-Lease shipments accounted for 11,300,000,000 of our exports, cash exports were only 3,000,000,000. Our international trade on a cash basis therefore actually resulted in a net deficit of about 960,000,000 dollars. There were also substantial net payments to foreigners arising from expenditures by the Government and by American troops in foreign countries..."

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A.3015.EJ. M

at the end of 1944, as compared with 7,000,000,000 dollars in 1928.

"If the position of foreign countries is further strengthened by adoption of the proposals agreed on at Bretton Woods," the report added, "there will be every reason to expect more stability, order, and freedom in international exchange relations in the post-war world."

Excerpts from the report follow:

"The large net payments to foreign countries on account of trade and military expenditures enabled foreign countries to make substantial gold purchases in the United States and at the same time to increase their dollar balances to some extent. The acquisition of gold by foreign countries is the principal factor accounting for the decline in monetary gold stock of the United States by 1,319,000,000 dollars during the year to 20,619,000,000.

"The net effect of other factors affecting the monetary gold stock was insignificant. Since gold under earmark for foreign accounts increased by only 460,000,000 dollars to 3,957,000,000 dollars it is clear that the major part of the gold purchased by foreign countries was exported rather than earmarked for foreign account as has been the practice in recent years.

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01/04

Box 3

- Winnet Record

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1938-46

F. Memorandums

RG FED RESERVE SYSTEM

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REFERENCE MATERIALSFile BINDER # 4Box 2

C 252.4

copy C 252.5

X C 262.4

July 18, 1947.

Barker -

## MEMORANDUM TO THE FILES

Subject: Investigation of Source of Gold Bars Purchased

In order to assure compliance with the Gold Declaration of February 22, 1944, the Federal Reserve Bank has been taking the precaution of ascertaining the origin of gold sold to the United States. In the case of gold under earmark at the Federal, this may involve several hours of record searching. It is clearly desirable not to impose unnecessary work of this kind upon the staff of the Federal Reserve Bank.

Accordingly, with the authorization of Mr. McNeill, I gave instructions to the Federal (Mr. Jardine) on Thursday, July 17, that with the exception of Turkey, Argentina, Portugal, Spain, and Switzerland, countries selling gold need no longer be investigated in this way. Furthermore, work on the above five countries may be reduced by a preliminary approximate report on the origin of the bars without tracing the month of import of every single bar. For example, if the Federal telephones us that all the bars were received before, say, 1939, no doubt the Treasury will be able to formulate its policy on the basis of such a general statement.

Mr. Jardine said that perhaps it would be helpful if the Federal sent to us a record of all the gold now held by these five countries under earmark in New York.

G. A. Eddy

CC: Messrs. McNeill, Dietrich, Bittermann, Pricher (NY Federal)

GAE:dmh  
7/18/47

(el)

226960 B

000001647

RG-131 - OAP  
 E: FFC - Sub file  
 Box 58  
 K. After - Dept. Campaign

J. N. Dept. Com.

Feb 17, 1945

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

Dear Mr. Secretary:

This Administration has on several occasions brought to your attention matters involving the utilization of war trade agreements and arrangements to ensure the attainment of economic warfare objectives and security against further aggression by Germany and Japan. Since these exchanges between the personnel of your Department and this Administration at the operating level usually pertain to specific countries, I want to take this occasion to state our views as to an appropriate general program of operations.

As you know, the subject of our economic policy toward neutral countries was treated by the State Department's Interdepartmental Executive Committee on Economic Foreign Policy, of which FEA is a member, on December 8, 1944. Although the problem of enemy assets and economic activities outside Germany (particularly in the neutral areas), and the general question of putting pressure upon neutrals for cooperation in this connection was referred to in the policy approved on December 8, 1944, no specific program of operations to utilize war trade agreements and arrangements as an immediate pressure device was spelled out.

With the progress of our military forces, the former economic warfare objectives diminish in importance and may, within a relatively short time, be of little significance (in the case of Germany). On the other hand, the progress of our military forces tends to increase efforts to remove assets and technical personnel from Germany, as well as efforts to place beyond reach those assets already outside the borders of the Reich. The problems of post-hostilities control of the defeated enemy become increasingly current, and a specific program for using powerful bargaining weapons at our disposal with countries who supply actual or potential Safe Haven to the enemy becomes highly important.

We have every reason to believe that the Germans, and perhaps the Japanese, are using, and will, if permitted, continue even more to use, the territories of sovereign nations outside Germany (and Japan) as places in which they may, with some impunity, conduct the transactions and activities that frustrate and evade allied controls over them following defeat. Therefore, we feel that the U. S., together with its allies, is justified in asking that, when neutral countries seek from us what we have in our power to deny, we should take advantage of their amenability to bargaining to insist upon the

226961

2 - The Secretary of State

maximum of concessions necessary to implement our External Security (Safe Haven) Program in addition to whatever economic warfare objectives may still remain.

For the purpose of clarity it may be noted that the concept of External Security or Safe Haven is deemed by us to include general problems of German assets (broadly defined) outside Germany, evasions of economic controls over Germany by activities carried on outside of Germany, the use of economic sanctions outside Germany for the enforcement of controls over German property and economic activities, the surveillance of the movements and activities of German nationals outside of Germany having economic security significance as well as such specific and restricted matters as loot, flight of German capital, assets of German war criminals, etc.

For example, in the case of Switzerland, it has been the view of this Administration, expressed informally to officials of your Department and the President's Special Representative to Switzerland (Mr. Currie), that in addition to the economic warfare objectives of cessation of the transit traffic, elimination of certain listed exports to Germany, and adoption of the gold clause requested of the Swiss Government in September 1944, a set of Safe Haven objectives should be presented to the Swiss, among them the following:

(1) Public announcement by the Swiss Government of its intention to adhere to Bretton Woods Resolution No. VI and of its intention to prevent the use of Swiss laws and institutions and Swiss nationals for the purpose of clothing with legal personality or the legal protection of secrecy, confidential relation, and the like, any transaction or activity directly or indirectly with an Axis interest except upon complete disclosure of all facts and as to future transactions and activities, prior clearance with designated Swiss Government officials. All such information shall be made available to the United States and United Kingdom or representatives thereof on request.

(2) An undertaking by the Swiss Government to establish a procedure for providing to the United States and United Kingdom information regarding all matters referred to in the Bretton Woods Resolution. The Swiss may, while providing substantial and detailed disclosure, make appropriate arrangements for the protection of their national defense. The representatives of the United Nations interest may, if the information received is believed inadequate, have appropriate review by higher authorities.

(3) Switzerland will promptly freeze all assets of Axis countries or their satellites subject to Swiss control, however indirect Axis

226962

## 3 - The Secretary of State

control may be, and will freeze ad hoc interests or transactions brought to the Swiss Government's attention by the United States or the United Kingdom.

(4) Switzerland shall prohibit the entry of all assets, the acquisition of interests and the migration of personnel from Axis countries and their satellites without the concurrence of the United States and United Kingdom. Whenever the United States and United Kingdom call to the attention of the Swiss Government the probability of cases of such entry, acquisition or migration, the Swiss Government will take all necessary enforcement steps.

(5) Switzerland will immediately conduct a census of assets (broadly defined and including both open and cloaked assets), technicians and managerial and industrial personnel of Axis countries and their satellites including, but not restricted to, business and security interests, patents, contractual rights such as management contracts, patent licenses and similar agreements, insurance policies and reinsurance contracts, bank accounts and deposits, embracing also trusteeship accounts and safe deposit boxes and vaults. The Swiss Government will agree to make available to the United States-United Kingdom authorities the information obtained from the census and registration.

Should assets not previously frozen pursuant to action prescribed in (3) above be disclosed by the census, they shall likewise be frozen.

(6) The Swiss Government will make available to the United States and United Kingdom Governments full information regarding its action under the foregoing paragraphs.

(7) The Swiss Government will make public announcement that it will not be contrary to Swiss policy for any person subject to Swiss law or any Swiss national agency to give information to United States or United Kingdom representatives concerning matters in the Axis interest referred to herein or for inquiries to be made in Switzerland by United States or United Kingdom representatives on such matters. Where such a policy would conflict with Swiss law the Swiss Government will undertake to secure the necessary amendment or repeal of such law.

(8) Switzerland shall give access to its judicial and administrative facilities on behalf of all United States or United Kingdom agencies and representatives seeking to discover, frustrate or claim Axis interests and activities.

(9) All cartel agreements, patent licenses and stockvoting agreements shall be registered publicly, or shall be otherwise made available to the United States and United Kingdom through appropriate procedure.

226963

## 4 - The Secretary of State

We feel that the same standard of cooperation, varied wherever necessary to meet a peculiar national situation, should be equally applied as quickly as possible to the other neutral countries including Sweden, Spain, Turkey, Portugal, Eire, and Argentina.

With respect to these countries with whom we shall hereafter negotiate future trade agreements, or continue existing supply arrangements, it is the view of this Administration that a major quid pro quo should be the adoption by the neutral countries of an appropriate and effective (External Security (Safe Haven) program along the lines outlined above.

We are of the view that with respect to these nations now enjoying interim or working arrangements for supply--that is to say, where the initiation of discussions with respect to a new agreement is not now contemplated--this government should give reasonable, but short, notice of a reconsideration of those current arrangements with a view to the incorporation of a program of cooperation on External Security (Safe Haven) objectives as necessary to a continuance of those arrangements or to a new agreement in substitution therefor.

I note from the Acting Secretary's letter (undated) in reply to my letter of January 17 that it is planned that the recently established European Neutrals Committee shall discuss the coordination of an External Security or Safe Haven Program with the other matters within the purview of that committee. I trust that, in view of the considerations above presented, the representatives of the State Department on the Committee will ensure that cooperation by neutral countries in an External Security Program of the character described shall be a prerequisite to any provision of supplies to such countries.

Officials of this Administration charged with the subject are ready and available to discuss these problems with officials of your Department, both in general and with respect to any specific neutral country. I should, in the meantime, be happy to receive from you an expression of your views on this subject.

Sincerely yours,

Leo T. Crowley  
Administrator

BA-860  
HHFowler:msk  
2/8/45

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RG FED RESERVE SYSTEM

Entry NON-RECORD  
REFERENCE MATERIALSFile BINDER # 4Box 2

MISC. 38.2-100M-8-48

## OFFICE CORRESPONDENCE

X 2601 Spain - Part of

FEDERAL RESERVE BANK  
OF NEW YORK

X 260.2

DATE February 10, 1950

To Mr. Knoke

SUBJECT

FROM N. P. DavisSee memo - 4/30/58

Copies to Messrs. Sanford and Rozell.

Cat.  
Backer

In compliance with your suggestion, I spoke with Mr. Elting Arnold at the Treasury regarding the possible applicability to Spanish gold of the Treasury declaration of February 2, 1944 that it would not buy gold from any country which has not broken relations with the Axis until it is fully satisfied that such gold was not acquired from the Axis powers. Mr. Arnold informed me that a settlement regarding Axis looted gold had been made with Spain. Although the settlement was not very satisfactory, it was nevertheless duly accepted. It would seem therefore that the Treasury is not in a position to base a refusal to purchase Spanish gold on the 1944 declaration.

NPD Davis

NPD:iml

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RG FED RESERVE SYSTEM  
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File REFERENCE MATERIALS  
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2

MISC. 3B  
(MISC. 3B.2-75M-9-56)

*Gold Files*

FEDERAL RESERVE BANK  
OF NEW YORK

OFFICE CORRESPONDENCE

X 260.2  
DATE April 30, 1958.

TO Mr. Exter  
FROM Norman P. Davis

SUBJECT \_\_\_\_\_  
JAN 30 1958

*see file 260.21 - telegram of 2/23/44*

During the War (January 1943 and subsequently), the United States, jointly with several of its Allies, issued warnings to neutral countries against their purchasing gold from the Germans which might have been looted from the countries occupied by the Germans. The statement was made that the United States and its allies would not purchase gold from any of such neutral countries without being fully satisfied that the gold in question had not been looted by the Germans. Some time after the War, the Allied Powers entered into an agreement with Switzerland lifting the restrictions of the above-mentioned warning, but only after Switzerland had paid into the Tripartite Commission for the Restitution of Monetary Gold a quantity of gold representing the amount of looted gold which the Allies had been able to prove to have been sold by the Germans to the Swiss. A similar release was subsequently given to the other neutral powers, notably Spain and Portugal. Meanwhile, there has not been a single case in which the United States has refused to buy gold on the grounds that it represented looted gold. In fact, the U. S. Treasury knowingly melted down and reissued as Assay Office bars a large amount of gold owned by the Spanish Government which contained gold bars which the Treasury knew to have been looted by the Nazis.

*see memo 2/10/5*

*1943  
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24*

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RG FED RESERVE SYSTEM

Entry NON-RECORD REFERENCE MATERIALS

File BINDER # 4

Box 2

Policy

Gold Files

MISC. 3B  
(MISC. 3B.2-78M-9-56)

FEDERAL RESERVE BANK  
OF NEW YORK

OFFICE CORRESPONDENCE

X 260.2  
DATE April 30, 1958.  
FEDERAL RESERVE BANK OF NEW YORK

To Mr. Exter

SUBJECT

FROM Norman P. Davis

See file 260.21 - Telegram 2/23/44

During the War (January 1943 and subsequently), the United States, jointly with several of its Allies, issued warnings to neutral countries against their purchasing gold from the Germans which might have been looted from the countries occupied by the Germans. The statement was made that the United States and its allies would not purchase gold from any of such neutral countries without being fully satisfied that the gold in question had not been looted by the Germans. Some time after the War, the Allied Powers entered into an agreement with Switzerland lifting the restrictions of the above-mentioned warning, but only after Switzerland had paid into the Tripartite Commission for the Restitution of Monetary Gold a quantity of gold representing the amount of looted gold which the Allies had been able to prove to have been sold by the Germans to the Swiss. A similar release was subsequently given to the other neutral powers, notably Spain and Portugal. Meanwhile, there has not been a single case in which the United States has refused to buy gold on the grounds that it represented looted gold. In fact, the U. S. Treasury knowingly melted down and reissued as Assay Office bars a large amount of gold owned by the Spanish Government which contained gold bars which the Treasury knew to have been looted by the Nazis.

See memo 2/10/58

*[Handwritten signature]*

226967

RG FED RESERVE SYSTEM

Entry NON-RECORD REFERENCE MATERIALS

File BINDER # 4

Box 2

MISC. SB. 2-100M-8-49

OFFICE CORRESPONDENCE

X 261 Spain - *[Handwritten]*

FEDERAL RESERVE BANK OF NEW YORK

X 260.2

DATE February 10, 1950

TO Mr. Knobe

SUBJECT SEE memo - 4/30/58

FROM N. P. Davis

Copies to Messrs. Sanford and Rozell.

*Cat. Barker*

In compliance with your suggestion, I spoke with Mr. Elting Arnold at the Treasury regarding the possible applicability to Spanish gold of the Treasury declaration of February 2, 1944 that it would not buy gold from any country which has not broken relations with the Axis until it is fully satisfied that such gold was not acquired from the Axis powers. Mr. Arnold informed me that a settlement regarding Axis looted gold had been made with Spain. Although the settlement was not very satisfactory, it was nevertheless duly accepted. It would seem therefore that the Treasury is not in a position to base a refusal to purchase Spanish gold on the 1944 declaration.

*NPDavis*

NPD:iml

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Authority NND 775059  
By KG NARA Date 4/19/10RG 260Entry Finance AdminFile 440.60 GoldBox 440

226969

Gold

15 August 1945

MEMORANDUM TO: Lt Col H. D. CRAGON.

In our memorandum of 19 June 1945, we outlined the general procedure to be followed in evaluating the gold and silver values stored in the Reichsbank in Frankfurt. The inventory having been made, we submit our findings and comments for your information.

Attached is Schedule XII showing the values found by the committee. Also, attached are Schedules I to XI showing recapitulation of the work sheets and other pertinent data as follows:

- Schedule I - Schedule of Bar Shipments to Merkers Mine
- Schedule II - Gold Bars
- Schedule III - Gold Coin
- Schedule IV - Gold Coin
- Schedule V - Rare Coins
- Schedule VI - Silver in Shipment I
- Schedule VII - Silver Coin in Shipment I
- Schedule VIII - Platinum Metals
- Schedule IX - Melters
- Schedule X - Summary of Silver
- Schedule XI - Value of Gold and Silver
- Schedule XII - Recapitulation of Shipments by Type of Metal

We leave with you 234 work sheets covering gold, platinum metal and odd bars, 108 work sheets on gold, silver and rare coin, and 5 folders of work sheets on silver bars. These work sheets are in poor condition and should be typed before they are examined and handled too much. They are the original records of our work, and if lost before typing, it would be necessary to reweigh the bars and coin. In order to understand the work sheets, we submit the following relative to the procedure followed in accomplishing our task.

#### Gold Bars

Shipment I. The attached Schedule I of the bars taken to the Merkers mine by the Germans was obtained from Thoms, formerly head of the bullion department in the Reichsbank in Berlin. This schedule shows the bars as they were stored in the various compartments in Berlin and as they were tagged for shipment to the Merkers Mine. The list shows the compartment number, the bag number and the Reichsbank number, as well as the total number of bars of each type. There were four classes of gold bars, Hochwertige, Verschiedene, Standard and 900 er. In addition there were two other records from which bars in Shipment I came, namely, the Depot Mappe and the Banca d'Italia. On our work sheets we refer to the compartment number appearing on Schedule I because of the convenience of checking the German records. The total for Shipment I is compiled from

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Authority NND 77509  
By KG NARA Date 4/19/00RG 260Entry Finance AdminFile #940.60Box 440

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the total of the various compartments listed on Schedule I. Compartment A 14d was not complete with bar numbers, etc., because, as explained by Thoms, this was a residue compartment that was prepared for shipment at the last moment. We reconstructed the bars in A 14d from the Verschiedene book and obtained the total number of pieces listed by Thoms, namely, 181. Two large natural nuggets appear in this lot.

The bars and scrap listed on page 211, 12 large Degussa bars, 6 small bars, and 2 bags of scrap, were in shipment I but not listed for shipment to Merkers. In addition, 172 silver bars were found in A 14d that were not listed. Thoms knew of the silver bars but did not know the total number.

Schedule I was used as a starting guide and work sheets were prepared with the following columnar headings inserted:

Column 1 Date received by Reichsbank

Column 2 Melter

Columns 3, 4 & 5 Assayer

Columns 6, 7, 8 & 9 Bar Numbers

Columns 10, 11 & 12 Gross Weight

Column 13 Fineness

Column 14 Fine Ounces

Columns 15 & 16 Reichsbank

The following information was recorded from the Reichsbank books to the work sheets. The information so recorded was not the determining factor in compiling our inventory. It was merely used as a guide and for recording information that may be of help in investigating the origin of the bars. The inventory was compiled from the actual weighing of the bars and coin.

Column 1. Date received by Reichsbank. In this column was recorded the date the gold bars were entered in the Reichsbank's bar books and classified as to fineness.

Column 9. Bar Number. In the last of the four columns under this heading was inserted the Reichsbank number assigned to the bar. The practice was followed of assigning a number to a bar even though such bar had a melt number stamped on it. This practice was followed no matter what kind of bar was involved. The number corresponded to a number labeled on the bar (pasted on with Scotch tape). This number we called the Reichsbank number and in all but a very few cases it was the identifying number. If no Reichsbank number was available we recorded the melt number.

Column 10. Gross Kilos. The gross weight of the bar, in kilos, was recorded in column 10 from the Reichsbank's books.

Column 11. Converted Ounces. The gross kilos recorded in column 10 were converted into ounces using the factor 32.150742 oz. equals one kilo. This conversion was made for the convenience of the weigher as our weights were in ounces.

*Handwritten signatures and initials*

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Authority NND 77509  
By KG NARA Date 4/29/60RG 260Entry Finance AdminFile 440.60Box 440

226971

Columns 15 & 16. Reichsbank. In column 15 was recorded the fineness of the bar as it appeared on the German books. In column 16 was recorded the fine kilos as calculated by the Germans. Fine kilos were obtained by multiplying Column 10 by Column 15.

The columnar work sheets with the above information were prepared from the German records and from converting gross kilos into ounces, and were taken to the vaults where entries were made in the remaining columns, namely, 2, 3, 4, 5, 6, 7, 8, 12 and 13.

Column 2. Melter. The name of the original melter of the bar was inserted in this column, the information being taken from the bar. Only in a few instances were we not able to obtain the name of the melter. Because persons not familiar with the various melters throughout the world may examine this report, we attach Schedule IX showing the names of all the melters found on the bars together with the abbreviations used in recording the melters and the country.

Columns 3, 4 & 5. Assayer. In one or more of these columns was entered the name of the assayer of the bar. For example, if a United States bar was processed, one column would show this bar had a United States assay on it. If the bar had also been in France and had a French assay, it would be listed in another column, etc.

Columns 6, 7 & 8. Bar Number. Under the heading "Bar Number" there appear 4 columns. Entries into Column 9 have been explained above indicating that the Reichsbank number appeared in this column. It was explained that this number was taped on the bar. If the bar came from a refinery or bank and had an identifying number stamped on it, that number was recorded. Columns 6, 7 & 8 are headed "U.S.", "B/E", and "Others". If United States bars were weighed, the melt number was entered under Column 6 headed "U.S.". Bars bearing the Bank of England mark were listed under Column 7, "B/E". Numbers on the other bars, including numbers on the Prussian Mint bars, were recorded under Column 8 marked "Other".

Column 12. Actual Ounces. This is the most important column on the work sheet. In this column was entered the actual weight of the bars as they passed over the scales.

Column 13. Fineness. Entries in this column were made at the time of actual weighing or later from assay certificates or records if no assay appeared on the bar. If the bar was of English or United States origin with the fineness stamped on it, that fineness was accepted and listed at the time of weighing (all United States bars have the fineness stamped on the bar and the majority of the English). This fineness will not necessarily correspond with the fineness recorded on the German book and entered in Column 15 because the Germans followed the practice of taking the lowest assay on the bar. For example, if a United States bar had been assayed by a French assayer and stamped lower than the United States assay, the Germans would accept the French assay.

In cases where no assay was stamped on the bar, a search was made of the assay certificates captured at Merkers and the assay was recorded from the certificate. If there was no fineness stamped on the bar and no assay certificate, the fineness was recorded from the German books. Prussian Mint bars do not have the fineness stamped on them. The majority, however, had assay certificates available.

LT *[Signature]*  
Nob. *[Signature]*

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In a few cases where there were no certificates and the fineness was not recorded on the books, we estimated the fineness. The estimate was always conservative.

After the bars were weighed and the fineness determined, the fine gold content was calculated. All calculations were checked, that is, the original was made by one person and the answer checked by another.

Shipment 20 A. Shipment 20A consisted of Hungarian gold packed in boxes. The same procedure was followed in inventorying these values as in Shipment I except the information was taken from the books of the Hungarian National Bank. There was no Reichsbank number on the bars and the Hungarian number stamped on the bar was used as the identifying number both in the books and on the bars. There were no assay certificates and the fineness was taken from the bars, and in a few instances from the books.

Miscellaneous Shipments. All other shipments of gold bars were apparently not scheduled for shipment by the Germans, and there were no records available to identify them. In such cases the bars were sorted according to melt number and information was taken from the bars and traced back to the books. Shipment 27G, for example, had been buried in the wet ground and all identification marks had been destroyed. This shipment was reconstructed from the melt numbers appearing on the bars. Only in a few shipments were we unable to trace the bars back to the records, namely, 26C, 27B, 27C, and 2C. Also, in Shipment 1, the items appearing on page 211. We weighed the bars in these shipments and estimated the fineness.

Procedure. The bar bags were sorted by compartment number and by bag number where a tag was on the bag. In a great many instances the tags had been lost. The bags were opened and the bars sorted by Reichsbank number if one was on the bar, otherwise, by the melt number.

The work sheets were prepared in such a manner that each sheet represents a stack of 30 gold bars or as near to 30 as was possible to obtain. The bars were stored in piles of 30 or the number on the sheet, in the compartments. We attach location charts showing the stacking of the bars. On the location sheet one bar number in the stack will be listed. A bar can be traced from the books to the work sheet to the stack or from the stack to the work sheet and to the books. For example, if one desires to find bar number 24,904 the first step is to look at Schedule I for the lot number, which is Ald. On the work sheets labeled Ald one can find the bar number under the Reichsbank number on page 9. From page 9 one can obtain the pile number and from the location chart the actual stack in which the bar is located.

#### Gold Coin

Shipment 1. The bulk of the gold coin as shown in Schedule XII was contained in the Merkers shipment. The coins were sorted according to compartment number insofar as practicable. The coins were in small bags inside a large bag. The large bag had a tag identifying the compartment from which it came in Berlin. Somewhere in the movement many tags had been torn off and had been tied on to the wrong bag thereby confusing the sorting. Other tags were missing and it was impossible to identify the coin according to the compartment number as in the case of gold bars where there were other identifying markings. Also, the bags were sorted according to country of origin within the compartment. Because 216 bags of coin were not available for counting until after the others were sorted, the continuity in recording and stacking was lost. However, these 216 bags are sorted in the same manner as the others.

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After sorting, the large bag was opened and the number of the tag on the large bag was recorded in Column 3 of the coin work sheet under the heading "German Bag Number". Also, in Column 2 was recorded the denomination or type of coin under the heading "Denomination and Country." In Column 4 was recorded the bag number assigned by us under the heading "Our Bag Number". The small bags inside the large one were then opened and the contents poured into a container and weighed. The gross weight of the coins was recorded in Column 5 headed "Gross Weight." Caution was exercised to assure the correct recording of the weight. The tag that was to be attached to the seal of our bag was filled out by the clerk who recorded the weight and he listed the bag number, denomination and weight on the tag after he had recorded it on the work sheet. The weigher then checked the weight on the tag with the weight on the scale. Also, the tags on the small bags were saved and placed inside our bag with the coin. In addition, the numbers appearing on the small bags were recorded in Columns 7 to 13 of the work sheet. There were usually 5 small bags with tags which were recorded and the tags placed in the large bag. However, in several instances the tags were missing from the small bags or the numbers could not be read as they were often written in with a pencil or "scratched out". The Reichsmarks were packed 10 small bags to a container and were in very bad condition. As a rule, there were many tags missing on the Reichsmark bags. In column 6 was entered the fineness of the coin. The fine weight of coins of the same fineness was obtained in one calculation.

Location charts are attached showing the location of the bags according to our bag number. From this can be obtained other pertinent data from the work sheets.

Miscellaneous Shipments. As stated above and shown on Schedule XII, there were not many coins in the other shipments. These were handled in the same manner as described above in Shipment I except that there were no compartment numbers.

#### Platinum Metals

Considerable quantities of the platinum group metals were inventoried by the committee. Schedule VIII shows the quantities of each type metal found in each shipment. More detailed information is available from the work sheets. In Shipment 1, six platinum bars were found in a coin bag. These bars were weighed and the stamped fineness on the bars was taken. In Shipment 5 we found 6 boxes of platinum metals as they had come from the refinery. The weights on the wrappers were recorded and check weights were made from time to time. Shipment 22 was platinum scrap all of which was weighed and bagged in lots of approximately 600 ounces. In this shipment there were also 25 bottles containing platinum metals and the weights on the bottles were accepted after check weighing a few.

#### Silver Bars

The procedure for making the inventory of the silver values differed from that for gold inasmuch as no list giving any particulars of silver was available.

In some instances parts of the same shipment were stored in more than one vault and it was accordingly decided that the best plan was to list the contents of each vault separately and then to show the totals of the silver contained in each shipment on a

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KLG  
M. J. J. J.  
J. J.

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recapitulation sheet. The work sheets including a summary of the contents of each vault have been bound into 5 folders. Charts showing the position of each stack and of each shipment have been made. To facilitate easy reference to any particular bar each layer of each stack is represented by one column on the work sheet - the first column for each stack containing the details of the bottom layer, and the last column those of the top layer. Further, the first bar of each layer has been placed in the same relative position in all stacks and has been indicated by a red dot on the charts.

Wherever possible the bars have been grouped according to their fineness and stacked in a manner to facilitate counting and to spread the weight on the floor.

The method adopted for making the inventory of the bars was as follows: Wherever the number, of the fineness and the weight were stamped on the bar this was recorded as experience has shown that for practical purposes these are invariably correct. In those cases where no weight was stamped the bars were weighed on an automatic scale especially obtained for the purpose. Although such a scale cannot be considered as accurate as a bullion balance any aggregate error was reduced by weighing, usually, 5 bars at a time. Where the fineness was not stamped on the bar it was estimated. Where neither weight nor fineness were stamped, as in part of Shipment 56, both were estimated on a conservative basis.

In addition to the bars a certain amount of shot silver and silver scrap was weighed. Other items in Shipment 56, said to be silver were inventoried but it was found impracticable to assess their value. There is considerable silver in the items not evaluated and care should be exercised over them in the same manner as the items inventoried.

Remarks LL  
Summary MB

We wish to point out that the personnel used on the inventory by the committee was totally inexperienced. Men engaged in handling the metal had no previous experience and most of the clerical work was done by similarly inexperienced enlisted men. The calculations were made by men who had never before used a calculator. Even the equipment used was assembled from bomb-wrecked Frankfurt. The committee feels, however, that the work is substantially accurate.

Working conditions were extremely unsatisfactory. The vaults in which the work was carried out were never built to handle or to store gold in such large quantities and the work was accomplished under cramped conditions. Especially was this true at the start when the sorting of the bags was in progress.

The committee has stored the values in an orderly manner so that the bars and work sheets and books can readily be compared. We recommend that the compartments be left under seal unless it becomes extremely urgent to open them. In that case great care should be taken not to mix the contents.

LL  
MB

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RG 260

Entry Finance Advisor

File #940-60

Box 440

226975

The committee thanks you and your associates for your cooperation in helping us carry out our assignment.

Bank of England Representatives

U.S. Treasury Representatives

F. E. Coulton  
F. E. COULTON

Leland Howard  
LELAND HOWARD

G. W. Cornwell  
G. W. CORNWELL

John D. Jamieson  
JOHN D. JAMIESON

Theodore H. Schiercke  
THEODORE H. SCHIERCKE

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SCHEDULE I

SCHEDULE OF BAR SHIPMENTS

TO

WOLFFSBURG MINE

| NUMBER OF BARS | COMPARTMENT | BAG NUMBERS | BANK NUMBERS  | TYPE                   |
|----------------|-------------|-------------|---------------|------------------------|
| 542            | A1 d        | 139 - 409   | 24724 - 25265 | Hochwertige            |
| 30             | A1 d        | 410 - 424   | 35104 - 35133 | Verschiedene           |
| 274            | A1 d        | 1 - 138     | 10165 - 10730 | Standard               |
| 10             | A1 d        | 425 - 434   | 35688 - 35697 | Verschiedene           |
| 162            | A7 e        | 1 - 40      | 43096 - 43175 | Hochwertige            |
|                |             | 405 - 443   | 42932 - 43013 | "                      |
| 329            | A8 a        | 1 - 165     | 28426 - 28754 | 900 er                 |
| 459            | A8 b        | 242 - 473   | 28755 - 29219 | 900 er                 |
| 343            | A8 c        | 166 - 337   | 48658 - 49000 | Hochwertige            |
| 931            | A8 f        | 1 - 93      | 48592 - 48657 | Hochwertige            |
|                |             | 451 - 883   | 46893 - 47757 | "                      |
| 40             | A15 b       | 61 - 80     | 41891 - 41430 | Hochwertige            |
| 80             | A15 b       | 81 - 120    | 41431 - 41510 | Hochwertige            |
| 80             | A15 b       | 525 - 564   | 43176 - 43255 | Hochwertige            |
| 80             | A15 b       | 1 - 40      | 41271 - 41350 | Hochwertige            |
| 80             | A15 b       | 369 - 402   | 42852 - 42931 | Hochwertige            |
| 451            | A7 a        | 1 - 226     | 22964 - 23285 | Hochwertige            |
|                |             |             | 23525 - 23537 | "                      |
|                |             |             | 24168 - 24229 | "                      |
| 7              | A7 a        | 227 - 330   | 9878 - 9862   | Not in bar             |
|                |             |             | 10244         | books - in             |
|                |             |             | 10622         | Depot Mappe            |
|                |             |             |               | under Degussa.         |
| 2              | A7 b        | 1           | 37105 - 37166 | Verschiedene           |
| 85             | A7 b        | 4 - 20      | 37006 - 37090 | Deposit Mappe          |
|                |             |             |               | under bar              |
|                |             |             |               | Kupfer - berg-         |
|                |             |             |               | werk.                  |
| 41             | A7 b        | 58 - 67     | 36566 - 36571 | Under                  |
|                |             |             | 36621 - 36627 | Reichssicherheit-      |
|                |             |             | 36644         | shauptamt.             |
|                |             |             | 36696 - 36697 |                        |
|                |             |             | 36702 - 36704 |                        |
|                |             |             | 36711 - 36725 |                        |
|                |             |             | 36730 - 36731 |                        |
|                |             |             | 36743         |                        |
|                |             |             | 37230 - 37233 |                        |
| 739            | A7 f        | 1 - 368     | 19835 - 20373 | 900 er                 |
| 2              | A7 f        | 369         | 37216 & 37258 | Verschiedene           |
| 330            | A8 c        | 1 - 165     | 49001 - 49330 | Hochwertige            |
| 98             | A8 c        | 338 - 356   | 12623 - 12660 | Standard               |
| 462            | A8 b        | 1 - 231     | 29233 - 29694 | 900 er                 |
| 141            | A8 e        | 377 - 446   | 37396 - 37596 | Verschiedene           |
| 894            | A8 f        | 34 - 450    | 47758 - 48591 | Hochwertige            |
| 39             | A8 g        | 357 - 376   | 12504 - 12622 | Standard               |
| 19             | A8 b        | 232 - 241   | 29214 - 29232 | 900 er                 |
| 1620           | A8 d        | 1 - 810     | 41061 - 42620 | Bank of Italy<br>book. |

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SCHEDULE I (cont'd)

| NUMBER OF BANKS | COMPARTMENT | BAO NUMBERS      | BANK NUMBERS                 | TYPE                               |
|-----------------|-------------|------------------|------------------------------|------------------------------------|
| 52              | A7 b        | A.N.1 - A.N. 12  | Under Albania National Bank. | Hochwertige                        |
| 82              | A7 b        | A.N.13 - A.N. 33 | Under Albania National Bank. | Standard                           |
| 6               | A7 b        | A.N.33 - A.N. 34 | Under Albania National Bank. | 900 cr                             |
| 58              | A7 b        | A.N.35 - A.N. 49 | Under Albania National Bank. |                                    |
| 181             | A14 d       | 1 - 59           | (?)                          | Phone says all from verschiedenen. |

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SCHEDULE II

GOLD BARS

| <u>ROOM NO.</u> | <u>SHEET NO.</u> | <u>FILE NO.</u> | <u>LOT NO.</u> | <u>NO. BARS</u> | <u>FINE OUNCES</u> | <u>LOT TOTAL</u> |
|-----------------|------------------|-----------------|----------------|-----------------|--------------------|------------------|
| 17              | 1                | 1               | A1 D           | 30              | 12,328,222         |                  |
| 17              | 1 B              | 2               | A1 D           | 30              | 12,352,039         |                  |
| 17              | 2                | 3               | A1 D           | 30              | 12,349,630         |                  |
| 17              | 2 B              | 4               | A1 D           | 30              | 12,348,830         |                  |
| 17              | 3                | 5               | A1 D           | 30              | 12,352,810         |                  |
| 17              | 3 B              | 6               | A1 D           | 30              | 12,084,635         |                  |
| 17              | 4                | 7               | A1 D           | 30              | 11,044,684         |                  |
| 17              | 4 B              | 8               | A1 D           | 30              | 11,526,798         |                  |
| 17              | 5                | 9               | A1 D           |                 | 12,349,716         |                  |
| 17              | 5 B              | 9               | A1 D           | 34              | 1,647,763          |                  |
| 17              | 6                | 10              | A1 D           | 30              | 11,217,164         |                  |
| 17              | 6 B              | 11              | A1 D           | 30              | 11,428,186         |                  |
| 17              | 7                | 12              | A1 D           | 30              | 11,370,997         |                  |
| 17              | 7 B              | 13              | A1 D           | 30              | 11,354,179         |                  |
| 17              | 8                | 14              | A1 D           | 30              | 11,389,034         |                  |
| 17              | 8 B              | 15              | A1 D           | 30              | 11,242,009         |                  |
| 17              | 9                | 16              | A1 D           | 30              | 11,298,697         |                  |
| 17              | 9 B              | 17              | A1 D           | 30              | 11,213,014         |                  |
| 17              | 10               | 18              | A1 D           | 30              | 11,323,750         |                  |
| 17              | 10 B             | 19              | A1 D           | 30              | 11,553,474         |                  |
| 17              | 11               | 20              | A1 D           | 30              | 11,635,132         |                  |
| 17              | 11 B             | 21              | A1 D           | 30              | 12,065,595         |                  |
| 17              | 12               | 22              | A1 D           | 30              | 12,083,455         |                  |
| 17              | 12 B             | 23              | A1 D           | 30              | 12,084,896         |                  |
| 17              | 13               | 24              | A1 D           | 30              | 12,060,444         |                  |
| 17              | 13 B             | 25              | A1 D           | 30              | 12,062,428         |                  |
| 17              | 14               | 26              | A1 D           | 32              | 12,901,116         |                  |
| 17              | 14 B             | 27              | A1 D           | 30              | 12,030,168         |                  |
| 17              | 15               | 28              | A1 D           | 30              | 10,988,379         |                  |
| 17              | 15 B             | 29              | A1 D           | 10 bags         | 6,435,740          | 338,172,984      |
| 6               | 16               | 1               | A7 A           | 30              | 12,052,515         |                  |
| 6               | 16 B             | 2               | A7 A           | 30              | 12,068,424         |                  |
| 6               | 17               | 3               | A7 A           | 30              | 12,086,016         |                  |
| 6               | 17 B             | 4               | A7 A           | 30              | 12,064,724         |                  |
| 6               | 18               | 5               | A7 A           | 30              | 12,051,452         |                  |
| 6               | 18 B             | 6               | A7 A           | 30              | 12,113,074         |                  |
| 6               | 19               | 7               | A7 A           | 30              | 12,104,183         |                  |
| 6               | 19 B             | 8               | A7 A           | 30              | 12,099,687         |                  |
| 6               | 20               | 9               | A7 A           | 30              | 12,097,815         |                  |
| 6               | 20 B             | 10              | A7 A           | 30              | 12,081,959         |                  |
| 6               | 21               | 11              | A7 A           | 29              | 11,695,930         |                  |
| 6               | 21 B             | 12              | A7 A           | 29              | 11,625,011         |                  |
| 6               | 22               | 13              | A7 A           | 30              | 12,024,852         |                  |
| 6               | 22 B             | 14              | A7 A           | 30              | 12,009,491         |                  |
| 6               | 23               | 15              | A7 A           | 30              | 12,087,295         |                  |
| 6               | 23 B             | 16              | A7 A           | 10              | 3,841,105          | 184,097,533      |

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| ROOM NO. | SHEET NO. | PILE NO. | LOT NO. | NO. BARS            | FINE OUNCES | LOT TOTAL   |
|----------|-----------|----------|---------|---------------------|-------------|-------------|
| 6        | 24        | 17       | A7 E    | 30                  | 12,116.567  |             |
| 6        | 24 B      | 18       | A7 E    | 30                  | 12,060.545  |             |
| 6        | 25        | 19       | A7 E    | 30                  | 11,983.755  |             |
| 6        | 25 B      | 20       | A7 E    | 30                  | 11,896.865  |             |
| 6        | 26        | 21       | A7 E    | 30                  | 11,942.251  |             |
| 6        | 26 B      | 22       | A7 E    | 12                  | 4,799.774   | 64,799.757  |
| 6        | 27        | 23       | A7 F    | 30                  | 11,527.223  |             |
| 6        | 27 B      | 24       | A7 F    | 30                  | 11,613.696  |             |
| 6        | 28        | 25       | A7 F    | 30                  | 11,549.052  |             |
| 6        | 28 B      | 26       | A7 F    | 30                  | 11,728.521  |             |
| 6        | 29        | 27       | A7 F    | 30                  | 11,613.834  |             |
| 6        | 29 B      | 28       | A7 F    | 30                  | 11,407.545  |             |
| 6        | 30        | 29       | A7 F    | 30                  | 11,619.333  |             |
| 6        | 30 B      | 30       | A7 F    | 30                  | 11,666.259  |             |
| 6        | 31        | 31       | A7 F    | 30                  | 11,700.927  |             |
| 6        | 31 B      | 32       | A7 F    | 30                  | 11,539.611  |             |
| 6        | 32        | 33       | A7 F    | 30                  | 11,490.994  |             |
| 6        | 32 B      | 34       | A7 F    | 30                  | 11,595.930  |             |
| 6        | 33        | 35       | A7 F    | 30                  | 11,359.701  |             |
| 6        | 33 B      | 36       | A7 F    | 30                  | 11,660.868  |             |
| 6        | 34        | 37       | A7 F    | 30                  | 11,645.451  |             |
| 6        | 34 B      | 38       | A7 F    | 30                  | 11,899.662  |             |
| 6        | 35        | 39       | A7 F    | 30                  | 11,577.186  |             |
| 6        | 35 B      | 40       | A7 F    | 30                  | 11,708.640  |             |
| 6        | 36        | 41       | A7 F    | 30                  | 11,689.503  |             |
| 6        | 36 B      | 42       | A7 F    | 30                  | 11,504.664  |             |
| 6        | 37        | 43       | A7 F    | 30                  | 11,569.452  |             |
| 6        | 37 B      | 44       | A7 F    | 30                  | 11,682.468  |             |
| 6        | 38        | 45       | A7 F    | 30                  | 11,770.875  |             |
| 6        | 38 B      | 46       | A7 F    | 30                  | 11,452.851  |             |
| 6        | 39        | 47       | A7 F    | 21                  | 8,019.091   | 286,521.337 |
| 6        | 40        | 48       | A7 B    | 30                  | 4,197.673   |             |
| 6        | 40 B      | 49       | A7 B    | 30                  | 3,007.667   |             |
| 6        | 41        | 50 & 51  | A7 B    | 27 & Bag            | 2,696.645   |             |
| 6        | 41 B      | 52       | A7 B    | 18 & Bag            | 7,236.211   |             |
| 6        | 42        | 52 & 53  | A7 B    | 22                  | 9,472.899   |             |
| 6        | 42 B      | 54       | A7 B    | 25 & Bag            | 9,725.523   |             |
| 6        | 43        | 55       | A7 B    | 30                  | 9,244.774   |             |
| 6        | 43 B      | 56       | A7 B    | 30                  | 9,732.480   |             |
| 6        | 44        | 57       | A7 B    | 30                  | 9,840.817   |             |
| 6        | 44 B      | 58       | A7 B    | 30                  | 11,273.209  |             |
| 6        | 45        | 59       | A7 B    | 36 Ingots<br>2 Bags | 12,566.089  | 88,993.987  |
| 6        | 46        | 61       | A8 A    | 30                  | 11,759.404  |             |
| 6        | 46 B      | 62       | A8 A    | 30                  | 11,695.485  |             |
| 6        | 47        | 63       | A8 A    | 30                  | 11,657.684  |             |
| 6        | 47 B      | 64       | A8 A    | 30                  | 11,656.154  |             |
| 6        | 48        | 65       | A8 A    | 30                  | 11,495.631  |             |
| 6        | 48 B      | 66       | A8 A    | 30                  | 11,877.093  |             |
| 6        | 49        | 67       | A8 A    | 30                  | 11,711.411  |             |
| 6        | 49 B      | 68       | A8 A    | 30                  | 11,714.934  |             |
| 6        | 50        | 69       | A8 A    | 30                  | 11,638.569  |             |
| 6        | 50 B      | 70       | A8 A    | 30                  | 11,740.125  |             |
| 6        | 51        | 71       | A8 A    | 29                  | 11,385.133  | 128,331.623 |

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| <u>ROOM NO.</u> | <u>SHEET NO.</u> | <u>PILE NO.</u> | <u>LOT NO.</u> | <u>NO. BAGS</u> | <u>FINE OUNCES</u> | <u>LOT TOTAL</u> |
|-----------------|------------------|-----------------|----------------|-----------------|--------------------|------------------|
| 6               | 52               | 72              | A8 B           | 30              | 11,700,297         |                  |
| 6               | 52 B             | 73              | A8 B           | 30              | 11,502,435         |                  |
| 6               | 53               | 74              | A8 B           | 30              | 11,812,500         |                  |
| 6               | 53 B             | 75              | A8 B           | 30              | 11,757,577         |                  |
| 6               | 54               | 76              | A8 B           | 30              | 11,740,635         |                  |
| 6               | 54 B             | 1               | A8 B           | 30              | 11,690,623         |                  |
| 6               | 55               | 2               | A8 B           | 30              | 11,761,844         |                  |
| 6               | 55 B             | 3               | A8 B           | 30              | 11,714,125         |                  |
| 6               | 56               | 4               | A8 B           | 30              | 11,659,669         |                  |
| 6               | 56 B             | 5               | A8 B           | 30              | 11,707,540         |                  |
| 6               | 57               | 6               | A8 B           | 30              | 11,548,248         |                  |
| 6               | 57 B             | 7               | A8 B           | 30              | 11,647,587         |                  |
| 6               | 58               | 8               | A8 B           | 30              | 11,680,417         |                  |
| 6               | 58 B             | 9               | A8 B           | 30              | 11,578,366         |                  |
| 6               | 59               | 10              | A8 B           | 30              | 11,561,727         |                  |
| 6               | 59 B             | 11              | A8 B           | 28              | 11,203,849         |                  |
| 6               | 60               | 12              | A8 B           | 30              | 11,107,015         |                  |
| 6               | 60 B             | 13              | A8 B           | 30              | 11,359,281         |                  |
| 6               | 61               | 14              | A8 B           | 30              | 11,508,626         |                  |
| 6               | 61 B             | 15              | A8 B           | 30              | 11,740,803         |                  |
| 6               | 62               | 16              | A8 B           | 30              | 11,758,729         |                  |
| 6               | 62 B             | 17              | A8 B           | 30              | 11,786,745         |                  |
| 6               | 63               | 18              | A8 B           | 30              | 11,680,271         |                  |
| 6               | 63 B             | 19              | A8 B           | 30              | 11,565,133         |                  |
| 6               | 64               | 20              | A8 B           | 30              | 11,873,079         |                  |
| 6               | 64 B             | 21              | A8 B           | 30              | 11,700,743         |                  |
| 6               | 65               | 22              | A8 B           | 30              | 11,586,773         |                  |
| 6               | 65 B             | 23              | A8 B           | 30              | 11,622,480         |                  |
| 6               | 66               | 24              | A8 B           | 30              | 11,517,392         |                  |
| 6               | 66 B             | 25              | A8 B           | 30              | 11,495,106         |                  |
| 6               | 67               | 26              | A8 B           | 30              | 11,637,639         |                  |
| 6               | 67 B             | 27              | A8 B           | 12              | 4,665,312          | 364,902,566      |
| 6               | 68               | 28              | A8 E           | 30              | 12,345,664         |                  |
| 6               | 68 B             | 29              | A8 E           | 30              | 12,013,033         |                  |
| 6               | 69               | 30              | A8 E           | 30              | 9,733,621          |                  |
| 6               | 69 B             | 31              | A8 E           | 30              | 6,878,273          |                  |
| 6               | 70               | 32              | A8 E           | 30              | 6,618,975          |                  |
| 6               | 70 B             | 33              | A8 E           | 30              | 6,948,981          |                  |
| 6               | 71               | 34              | A8 E           | 30              | 7,904,284          |                  |
| 6               | 71 B             | 35              | A8 E           | 7 @ 1 Bag       | 2,189,316          |                  |
| 6               | 72               | 1               | A8 E           | 30              | 12,031,547         |                  |
| 6               | 72 B             | 2               | A8 E           | 30              | 11,910,944         |                  |
| 6               | 73               | 3               | A8 E           | 30              | 11,998,190         |                  |
| 6               | 73 B             | 4               | A8 E           | 30              | 11,948,084         |                  |
| 6               | 74               | 5               | A8 E           | 30              | 12,021,937         |                  |
| 6               | 74 B             | 6               | A8 E           | 30              | 12,112,274         |                  |
| 6               | 75               | 7               | A8 E           | 30              | 12,159,789         |                  |
| 6               | 75 B             | 8               | A8 E           | 30              | 12,089,531         |                  |
| 6               | 76               | 9               | A8 E           | 30              | 11,993,341         |                  |
| 6               | 76 B             | 10              | A8 E           | 30              | 11,889,433         |                  |
| 6               | 77               | 11              | A8 E           | 30              | 12,049,604         |                  |
| 6               | 77 B             | 12              | A8 E           | 13              | 5,294,255          |                  |
| 6               | 78               | 13              | A8 E           | 30              | 12,226,623         |                  |
| 6               | 78 B             | 14              | A8 E           | 30              | 12,037,286         |                  |
| 6               | 79               | 15              | A8 E           | 30              | 11,730,555         |                  |
| 6               | 79 B             | 16              | A8 E           | 30              | 11,870,253         |                  |
| 6               | 80               | 17              | A8 E           | 30              | 11,802,479         |                  |
| 6               | 80 B             | 18              | A8 E           | 30              | 11,909,248         |                  |
| 6               | 81               | 19              | A8 E           | 30              | 12,119,449         |                  |
| 6               | 81 B             | 20              | A8 E           | 30              | 11,970,055         |                  |

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| ROOM NO. | SHEET NO. | FILE NO. | LOT NO. | NO. BARS | FINE OUTPUT | LOT TOTAL   |
|----------|-----------|----------|---------|----------|-------------|-------------|
| 2        | 82        | 21       | A8 E    | 30       | 12,083,430  |             |
| 2        | 82 B      | 22       | A8 E    | 30       | 11,772,153  |             |
| 2        | 83        | 23       | A8 E    | 30       | 12,129,243  | 333,981,850 |
| 2        | 84        | 24       | A15 B   | 30       | 12,095,717  |             |
| 2        | 84 B      | 25       | A15 B   | 30       | 12,013,226  |             |
| 2        | 85        | 26       | A15 B   | 30       | 12,183,370  |             |
| 2        | 85 B      | 27       | A15 B   | 30       | 12,094,078  |             |
| 2        | 86        | 28       | A15 B   | 30       | 12,010,719  |             |
| 2        | 86 B      | 29       | A15 B   | 30       | 12,166,494  |             |
| 2        | 87        | 30       | A15 B   | 30       | 12,164,582  |             |
| 2        | 87 B      | 31       | A15 B   | 30       | 11,989,284  |             |
| 2        | 88        | 32       | A15 B   | 30       | 11,984,262  |             |
| 2        | 88 B      | 33       | A15 B   | 30       | 12,093,665  |             |
| 2        | 89        | 34       | A15 B   | 30       | 12,089,248  |             |
| 2        | 89 B      | 35       | A15 B   | 30       | 11,985,627  | 144,870,272 |
| 4        | 90        | 1        | A8 D    | 30       | 11,182,914  |             |
| 4        | 90 B      | 2        | A8 D    | 30       | 11,112,467  |             |
| 4        | 91        | 3        | A8 D    | 30       | 11,092,671  |             |
| 4        | 91 B      | 4        | A8 D    | 30       | 9,191,660   |             |
| 4        | 92        | 5        | A8 D    | 30       | 10,716,080  |             |
| 4        | 92 B      | 6        | A8 D    | 30       | 10,843,667  |             |
| 4        | 93        | 7        | A8 D    | 30       | 9,096,875   |             |
| 4        | 93 B      | 8        | A8 D    | 30       | 10,091,823  |             |
| 4        | 94        | 9        | A8 D    | 30       | 11,062,168  |             |
| 4        | 94 B      | 10       | A8 D    | 30       | 11,099,598  |             |
| 4        | 95        | 11       | A8 D    | 30       | 11,092,538  |             |
| 4        | 95 B      | 12       | A8 D    | 30       | 11,089,706  |             |
| 4        | 96        | 13       | A8 D    | 30       | 11,186,130  |             |
| 4        | 96 B      | 14       | A8 D    | 30       | 11,135,068  |             |
| 4        | 97        | 15       | A8 D    | 30       | 11,098,576  |             |
| 4        | 97 B      | 16       | A8 D    | 30       | 10,723,852  |             |
| 4        | 98        | 17       | A8 D    | 30       | 9,821,353   |             |
| 4        | 98 B      | 18       | A8 D    | 30       | 10,161,550  |             |
| 4        | 99        | 19       | A8 D    | 30       | 10,479,497  |             |
| 4        | 99 B      | 20       | A8 D    | 30       | 11,099,710  |             |
| 4        | 100       | 21       | A8 D    | 30       | 11,099,791  |             |
| 4        | 100 B     | 22       | A8 D    | 30       | 11,097,840  |             |
| 4        | 101       | 23       | A8 D    | 30       | 11,089,764  |             |
| 4        | 101 B     | 24       | A8 D    | 30       | 11,163,220  |             |
| 4        | 102       | 25       | A8 D    | 30       | 11,225,399  |             |
| 4        | 102 B     | 26       | A8 D    | 30       | 11,060,481  |             |
| 4        | 103       | 27       | A8 D    | 30       | 10,280,179  |             |
| 4        | 103 B     | 28       | A8 D    | 30       | 10,061,878  |             |
| 4        | 104       | 29       | A8 D    | 30       | 11,020,090  |             |
| 4        | 104 B     | 30       | A8 D    | 30       | 11,099,843  |             |
| 4        | 105       | 31       | A8 D    | 30       | 10,994,268  |             |
| 4        | 105 B     | 32       | A8 D    | 30       | 9,908,727   |             |
| 4        | 106       | 33       | A8 D    | 30       | 11,095,647  |             |
| 4        | 106 B     | 34       | A8 D    | 30       | 11,097,877  |             |
| 4        | 107       | 35       | A8 D    | 30       | 11,095,715  |             |
| 4        | 107 B     | 36       | A8 D    | 30       | 11,086,737  |             |
| 4        | 108       | 37       | A8 D    | 30       | 11,207,167  |             |
| 4        | 108 B     | 38       | A8 D    | 30       | 11,097,316  |             |
| 4        | 109       | 39       | A8 D    | 30       | 11,097,719  |             |
| 4        | 109 B     | 40       | A8 D    | 30       | 11,139,194  |             |
| 4        | 110       | 41       | A8 D    | 30       | 10,959,163  |             |
| 4        | 110 B     | 42       | A8 D    | 30       | 11,020,157  |             |
| 4        | 111       | 43       | A8 D    | 30       | 11,066,800  |             |
| 4        | 111 B     | 44       | A8 D    | 30       | 11,098,575  |             |

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| ROOM NO. | SHEET NO. | FILE NO. | LOT NO. | NO. BARS | FINE OUNCES | LOT TOTAL   |
|----------|-----------|----------|---------|----------|-------------|-------------|
| 4        |           | 112      | 45      | A8 D     | 30          | 11,109,787  |
| 4        |           | 112 B    | 46      | A8 D     | 30          | 11,094,376  |
| 4        |           | 113      | 47      | A8 D     | 30          | 11,098,219  |
| 4        |           | 113 B    | 48      | A8 D     | 30          | 11,097,818  |
| 4        |           | 114      | 49      | A8 D     | 30          | 11,090,613  |
| 4        |           | 114 B    | 50      | A8 D     | 30          | 11,092,164  |
| 4        |           | 115      | 51      | A8 D     | 30          | 11,098,643  |
| 4        |           | 115 B    | 52      | A8 D     | 30          | 11,092,971  |
| 4        |           | 116      | 53      | A8 D     | 30          | 10,999,397  |
| 4        |           | 116 B    | 54      | A8 D     | 30          | 11,000,365  |
|          |           |          |         |          |             | 587,339,803 |
| 4        |           | 117      | 55      | A8 F     | 30          | 12,009,874  |
| 4        |           | 117 B    | 56      | A8 F     | 30          | 11,454,923  |
| 4        |           | 118      | 57      | A8 F     | 30          | 11,437,040  |
| 4        |           | 118 B    | 58      | A8 F     | 30          | 11,674,275  |
| 4        |           | 119      | 59      | A8 F     | 30          | 11,443,223  |
| 4        |           | 119 B    | 60      | A8 F     | 30          | 11,467,066  |
| 4        |           | 120      | 61      | A8 F     | 30          | 11,558,907  |
| 4        |           | 120 B    | 62      | A8 F     | 30          | 12,010,795  |
| 4        |           | 121      | 63      | A8 F     | 30          | 12,013,702  |
| 4        |           | 121 B    | 64      | A8 F     | 30          | 12,052,014  |
| 4        |           | 122      | 65      | A8 F     | 25          | 9,898,975   |
| 5        |           | 123      | 1       | A8 F     | 30          | 11,657,925  |
| 5        |           | 123 B    | 2       | A8 F     | 30          | 11,865,480  |
| 5        |           | 124      | 3       | A8 F     | 30          | 12,027,640  |
| 5        |           | 124 B    | 4       | A8 F     | 30          | 12,002,662  |
| 5        |           | 125      | 5       | A8 F     | 30          | 12,045,139  |
| 5        |           | 125 B    | 6       | A8 F     | 30          | 12,054,204  |
| 5        |           | 126      | 7       | A8 F     | 30          | 11,964,090  |
| 5        |           | 126 B    | 8       | A8 F     | 30          | 11,865,717  |
| 5        |           | 127      | 9       | A8 F     | 30          | 12,004,429  |
| 5        |           | 127 B    | 10      | A8 F     | 30          | 11,740,500  |
| 5        |           | 128      | 11      | A8 F     | 30          | 11,922,853  |
| 5        |           | 128 B    | 12      | A8 F     | 30          | 11,773,383  |
| 5        |           | 129      | 13      | A8 F     | 30          | 11,830,503  |
| 5        |           | 129 B    | 14      | A8 F     | 30          | 11,900,074  |
| 5        |           | 130      | 15      | A8 F     | 30          | 11,998,075  |
| 5        |           | 130 B    | 16      | A8 F     | 30          | 12,000,946  |
| 5        |           | 131      | 17      | A8 F     | 30          | 11,996,405  |
| 5        |           | 131 B    | 18      | A8 F     | 30          | 11,853,579  |
| 5        |           | 132      | 19      | A8 F     | 30          | 12,122,498  |
| 5        |           | 132 B    | 20      | A8 F     | 30          | 11,964,467  |
| 5        |           | 133      | 21      | A8 F     | 30          | 11,907,952  |
| 5        |           | 133 B    | 22      | A8 F     | 30          | 12,023,737  |
| 5        |           | 134      | 23      | A8 F     | 30          | 11,920,653  |
| 5        |           | 134 B    | 24      | A8 F     | 30          | 12,051,726  |
| 5        |           | 135      | 25      | A8 F     | 30          | 11,870,498  |
| 5        |           | 135 B    | 26      | A8 F     | 30          | 12,141,843  |
| 5        |           | 136      | 27      | A8 F     | 30          | 12,044,266  |
| 5        |           | 136 B    | 28      | A8 F     | 30          | 12,085,396  |
| 5        |           | 137      | 29      | A8 F     | 30          | 12,033,637  |
| 5        |           | 137 B    | 30      | A8 F     | 30          | 12,246,237  |
| 5        |           | 138      | 31      | A8 F     | 30          | 11,941,794  |
| 5        |           | 138 B    | 32      | A8 F     | 30          | 11,425,778  |
| 5        |           | 139      | 33      | A8 F     | 30          | 11,419,853  |
| 5        |           | 139 B    | 34      | A8 F     | 30          | 11,429,262  |
| 5        |           | 140      | 35      | A8 F     | 30          | 11,538,274  |
| 5        |           | 140 B    | 36      | A8 F     | 30          | 11,379,277  |
| 5        |           | 141      | 37      | A8 F     | 30          | 11,249,482  |
| 5        |           | 141 B    | 38      | A8 F     | 30          | 11,414,309  |
| 5        |           | 142      | 39      | A8 F     | 30          | 11,547,744  |
| 5        |           | 142 B    | 40      | A8 F     | 30          | 11,532,790  |
| 5        |           | 143      | 41      | A8 F     | 30          | 11,469,821  |
| 5        |           | 143 B    | 42      | A8 F     | 30          | 11,464,394  |
| 5        |           | 144      | 43      | A8 F     | 30          | 11,909,880  |
| 5        |           | 144 B    | 44      | A8 F     | 30          | 11,660,640  |

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| JM NO. | SHEET NO. | FILE NO. | LOT NO. | NO. BARS                | FINE OUNCES | LOT TOTAL   |
|--------|-----------|----------|---------|-------------------------|-------------|-------------|
| 5      | 145       | 45       | A8 F    | 30                      | 12,017,209  |             |
| 5      | 145 B     | 46       | A8 F    | 30                      | 12,052,387  |             |
| 5      | 146       | 47       | A8 F    | 30                      | 12,131,923  |             |
| 5      | 146 B     | 48       | A8 F    | 30                      | 11,982,839  | 695,504,967 |
| 4      | 147       | 66       | A14D    | 26                      | 3,474,717   |             |
| 4      | 147 B     | 67       | A14D    | 26 & 3 bags             | 7,300,292   |             |
| 4      | 148       | 68       | A14D    | 29 & 1 bag              | 6,979,215   |             |
| 4      | 148 B     | 69       | A14D    | 17 & 1 bag              | 5,530,999   |             |
| 4      | 149       | 70       | A14D    | 10 & 1 bag<br>2 nuggets | 3,576,077   |             |
| 4      | 149 B     | 71       | A14D    | 7                       | 2,618,203   |             |
| 4      | 150       | 72       | A14D    | 25 & 4 bags             | 5,684,242   |             |
| 4      | 150 B     | 73       | A14D    | 19 & 7 bags             | 7,154,850   |             |
| 4      | 151       | 74       | A14D    | 3                       | 1,204,727   | 43,523,322  |
| 5      | 152       | 1A       | 27G     | 30                      | 11,969,169  |             |
| 5      | 152 B     | 2A       | 27G     | 30                      | 11,957,735  |             |
| 5      | 153       | 3A       | 27G     | 30                      | 11,970,083  |             |
| 5      | 154       | 4A       | 27G     | 30                      | 12,154,598  |             |
| 5      | 154 B     | 5A       | 27G     | 30                      | 11,980,680  |             |
| 5      | 155       | 6A       | 27G     | 30                      | 11,918,202  |             |
| 5      | 155 B     | 7A       | 27G     | 30                      | 12,218,253  |             |
| 5      | 156       | 8A       | 27G     | 30                      | 12,123,063  |             |
| 5      | 156 B     | 9A       | 27G     | 30                      | 11,939,687  |             |
| 5      | 157       | 10A      | 27G     | 30                      | 11,890,216  |             |
| 5      | 157 B     | 11A      | 27G     | 30                      | 11,896,139  |             |
| 5      | 158       | 12A      | 27G     | 30                      | 11,957,639  |             |
| 5      | 158 B     | 13A      | 27G     | 30                      | 11,741,243  |             |
| 5      | 159       | 14A      | 27G     | 30                      | 11,879,894  |             |
| 5      | 159 B     | 15A      | 27G     | 30                      | 11,793,942  |             |
| 5      | 160       | 16A      | 27G     | 30                      | 12,142,828  |             |
| 5      | 160 B     | 17A      | 27G     | 30                      | 12,012,480  |             |
| 5      | 161       | 18A      | 27G     | 30                      | 11,879,256  |             |
| 5      | 161 B     | 19A      | 27G     | 30                      | 11,888,647  |             |
| 5      | 162       | 20A      | 27G     | 30                      | 12,002,268  |             |
| 5      | 162 B     | 21A      | 27G     | 30                      | 12,025,703  |             |
| 5      | 163       | 22A      | 27G     | 30                      | 11,895,712  |             |
| 5      | 163 B     | 23A      | 27G     | 30                      | 12,208,435  |             |
| 5      | 164       | 24A      | 27G     | 30                      | 12,040,087  |             |
| 5      | 164 B     | 25A      | 27G     | 8                       | 3,098,450   | 290,584,409 |
| 7      | 165       | 1        | 20A     | 30                      | 6,336,757   |             |
| 7      | 165 B     | 2        | 20A     | 30                      | 6,347,269   |             |
| 7      | 166       | 3        | 20A     | 30                      | 6,366,901   |             |
| 7      | 166 B     | 4        | 20A     | 30                      | 6,340,710   |             |
| 7      | 167       | 5        | 20A     | 30                      | 6,375,447   |             |
| 7      | 167 B     | 6        | 20A     | 30                      | 6,443,346   |             |
| 7      | 168       | 7        | 20A     | 30                      | 6,217,824   |             |
| 7      | 168 B     | 8        | 20A     | 30                      | 5,536,539   |             |
| 7      | 169       | 9        | 20A     | 30                      | 5,391,336   |             |
| 7      | 169 B     | 10       | 20A     | 30                      | 5,666,448   |             |
| 7      | 170       | 11       | 20A     | 30                      | 5,996,684   |             |
| 7      | 170 B     | 12       | 20A     | 30                      | 5,792,087   |             |
| 7      | 171       | 13       | 20A     | 30                      | 5,652,275   |             |
| 7      | 171 B     | 14       | 20A     | 30                      | 5,918,278   |             |
| 7      | 172       | 15       | 20A     | 30                      | 6,058,360   |             |
| 7      | 172 B     | 16       | 20A     | 30                      | 7,416,884   |             |
| 7      | 173       | 17       | 20A     | 30                      | 9,111,064   |             |
| 7      | 173 B     | 18       | 20A     | 30                      | 11,094,983  |             |
| 7      | 174       | 18A      | 20A     | 30                      | 8,333,751   |             |
| 7      | 174 B     | 18B      | 20A     | 30                      | 488,369     |             |
| 7      | 175       | 19       | 20A     | 30                      | 9,103,372   |             |
| 7      | 175 B     | 20       | 20A     | 30                      | 10,680,057  |             |

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|-----------------|------------------|-----------------|----------------|-----------------|--------------------|------------------|
| 7               | 176              | 21              | 20 A           | 30              | 10,937,712         |                  |
| 7               | 176 B            | 22              | 20 A           | 30              | 11,112,405         |                  |
| 7               | 177              | 23              | 20 A           | 30              | 9,186,198          |                  |
| 7               | 177 B            | 24              | 20 A           | 30              | 11,506,616         |                  |
| 7               | 178              | 25              | 20 A           | 30              | 11,088,168         |                  |
| 7               | 178 B            | 26              | 20 A           | 30              | 10,646,486         |                  |
| 7               | 179              | 27              | 20 A           | 30              | 11,225,838         |                  |
| 7               | 179 B            | 28              | 20 A           | 30              | 10,992,976         |                  |
| 7               | 180              | 29              | 20 A           | 30              | 10,653,244         |                  |
| 7               | 180 B            | 30              | 20 A           | 30              | 11,083,524         |                  |
| 7               | 181              | 31              | 20 A           | 30              | 11,520,724         |                  |
| 7               | 181 B            | 32              | 20 A           | 30              | 11,453,500         |                  |
| 7               | 182              | 33              | 20 A           | 30              | 12,498,950         |                  |
| 7               | 182 B            | 34              | 20 A           | 30              | 12,242,694         |                  |
| 7               | 183              | 35              | 20 A           | 30              | 11,938,944         |                  |
| 7               | 183 B            | 36              | 20 A           | 30              | 11,907,677         |                  |
| 7               | 184              | 37              | 20 A           | 30              | 11,971,066         |                  |
| 7               | 184 B            | 38              | 20 A           | 30              | 11,458,823         |                  |
| 7               | 185              | 39              | 20 A           | 30              | 11,355,055         |                  |
| 7               | 185 B            | 40              | 20 A           | 30              | 10,146,626         |                  |
| 7               | 186              | 41              | 20 A           | 30              | 10,774,336         |                  |
| 7               | 186 B            | 42              | 20 A           | 30              | 10,770,621         |                  |
| 7               | 187              | 43              | 20 A           | 30              | 10,779,641         |                  |
| 7               | 187 B            | 44              | 20 A           | 30              | 10,767,277         |                  |
| 7               | 188              | 45              | 20 A           | 30              | 10,758,458         |                  |
| 7               | 188 B            | 46              | 20 A           | 30              | 10,763,597         |                  |
| 7               | 189              | 47              | 20 A           | 30              | 10,657,386         |                  |
| 7               | 189 B            | 48              | 20 A           | 30              | 10,533,584         |                  |
| 7               | 190              | 49              | 20 A           | 30              | 10,772,856         |                  |
| 7               | 190 B            | 50              | 20 A           | 30              | 10,780,698         |                  |
| 7               | 191              | 51              | 20 A           | 30              | 10,726,226         |                  |
| 7               | 191 B            | 52              | 20 A           | 30              | 10,769,278         |                  |
| 7               | 192              | 53              | 20 A           | 30              | 10,828,978         |                  |
| 7               | 192 B            | 54              | 20 A           | 30              | 10,682,366         |                  |
| 7               | 193              | 55              | 20 A           | 30              | 10,752,769         |                  |
| 7               | 193 B            | 56              | 20 A           | 30              | 10,764,098         |                  |
| 7               | 194              | 57              | 20 A           | 30              | 10,724,956         |                  |
| 7               | 194 B            | 58              | 20 A           | 30              | 10,751,639         |                  |
| 7               | 195              | 59              | 20 A           | 30              | 10,781,058         |                  |
| 7               | 195 B            | 60              | 20 A           | 30              | 10,792,632         |                  |
| 7               | 196              | 61              | 20 A           | 30              | 10,737,480         |                  |
| 7               | 196 B            | 62              | 20 A           | 30              | 10,765,865         |                  |
| 7               | 197              | 63              | 20 A           | 30              | 10,805,078         |                  |
| 7               | 197 B            | 64              | 20 A           | 30              | 11,090,670         |                  |
| 7               | 198              | 65              | 20 A           | 30              | 10,672,271         |                  |
| 7               | 198 B            | 66              | 20 A           | 30              | 10,772,497         |                  |
| 7               | 199              | 67              | 20 A           | 30              | 10,775,659         |                  |
| 7               | 199 B            | 68              | 20 A           | 30              | 10,774,669         |                  |
| 7               | 200              | 69              | 20 A           | 30              | 10,386,644         |                  |
| 7               | 200 B            | 70              | 20 A           | 30              | 11,935,660         |                  |
| 7               | 201              | 71              | 20 A           | 30              | 12,271,097         |                  |
| 7               | 201 B            | 72              | 20 A           | 30              | 9,892,134          |                  |
| 7               | 202              | 73              | 20 A           | 30              | 6,304,377          |                  |
| 7               | 202 B            | 75              | 20 A           | 30              | 7,250,756          |                  |
| 7               | 203              | 76              | 20 A           | 30              | 13,447,134         |                  |
| 7               | 203 B            | 77              | 20 A           | 30              | 12,075,042         |                  |
| 7               | 204              | 78              | 20 A           | 30              | 10,086,258         |                  |
| 7               | 204 B            | 79              | 20 A           | 30              | 11,739,105         |                  |
| 7               | 205              | 80              | 20 A           | 30              | 11,755,260         |                  |
| 7               | 205 B            | 81              | 20 A           | 30              | 11,714,061         |                  |
| 7               | 206              | 82              | 20 A           | 30              | 11,993,101         |                  |

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| ROOM NO. | SHEET NO. | FILE NO. | LOT NO. | NO. BARS          | FINE OUNCES | LOT TOTAL   |
|----------|-----------|----------|---------|-------------------|-------------|-------------|
| 7        | 206 B     | 89       | 20 A    | 30                | 11,730,329  |             |
| 7        | 207       | 84       | 20 A    | 30                | 6,007,759   |             |
| 7        | 207 B     | 85       | 20 A    | 30                | 12,104,268  |             |
| 7        | 208       | 86       | 20 A    | 30                | 12,308,847  |             |
| 7        | 208 B     | 87       | 20 A    | 30                | 12,286,595  |             |
| 7        | 209       | 88       | 20 A    | 26                | 9,618,249   |             |
| 7        | 210       | 89       | 20 A    | 14 Bars<br>4 Bags | 1,656,600   | 879,476,754 |

MISCELLANEOUS INCLUDING SCRAP

| SHEET NO. | LOT NO. | NO. BARS                               | COMPART-<br>MENT | FINE OUNCES | LOT TOTAL  |
|-----------|---------|--|------------------|-------------|------------|
| 211       | Ship. 1 | 12 Bars<br>3 Bags                      | Comp. 13         | 5,549,979   | 5,549,979  |
| 212       | 7       | 30                                     |                  | 11,871,042  |            |
| 212 B     | 7       | 30                                     |                  | 11,888,559  |            |
| 213       | 7       | 22                                     |                  | 8,722,434   | 32,482,035 |
| 214       | 10      | 30                                     |                  | 12,026,704  |            |
| 214 B     | 10      | 30                                     |                  | 11,934,178  |            |
| 215       | 10      | 22                                     |                  | 8,706,650   | 32,667,532 |
| 216       | 26 A    | 30                                     |                  | 11,929,545  | 11,929,545 |
| 217       | 26 C    | 13                                     |                  | 290,090     | 290,090    |
| 218       | 27 A    | 24<br>1 Bag                            |                  | 7,409,391   | 7,409,391  |
| 219       | 27 B    | 30                                     |                  | 12,042,889  |            |
| 219 B     | 27 B    | 30                                     |                  | 11,976,867  |            |
| 220       | 27 B    | 19                                     |                  | 7,687,445   | 31,707,201 |
| 221       | 27 C    | 30                                     |                  | 12,145,290  |            |
| 221 B     | 27 C    | 30                                     |                  | 12,045,980  | 24,191,270 |
| 222       | 29      | 30                                     |                  | 11,981,450  |            |
| 222 B     | 29      | 30                                     |                  | 11,842,840  |            |
| 223       | 29      | 22                                     |                  | 8,813,658   | 32,637,948 |
| 224       | 2 C     | 30                                     |                  | 12,194,068  |            |
| 224 B     | 2 C     | 34                                     |                  | 13,488,462  | 25,682,530 |
| C 99      | 34 A    | 28                                     |                  | 894,479     | 894,479    |
| C 99      | 20 C    | Scrap                                  |                  | 6,357,380   | 6,357,380  |
| 229       | 5       | 2 Bars<br>1 Piece<br>1 Sheet           |                  | 21,494      | 21,494     |
| 230       | 22      | 12 Large Bars<br>29 Small Bars & Scrap |                  | 5,251,744   |            |
| 231       | 22      | 1 Bag                                  |                  | 24,657      | 5,276,401  |
| C 106     | 31      | Scrap                                  |                  | 332,667     | 332,667    |
| C 106     | 21 K    | Small Bars                             |                  | 146,853     | 146,853    |

X |

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GOLD BARS

MISCELLANEOUS INCLUDING SCRAP. (Cont'd)

| <u>SHEET NO.</u> | <u>LOT NO.</u> | <u>NO. BARS</u>    | <u>FINE OUNCES</u> | <u>LOT TOTAL</u> |
|------------------|----------------|--------------------|--------------------|------------------|
| C 65             | Ship. 1        | Scrap              | 11.648             |                  |
| C 88             | Ship. 1        | Scrap              | 1,255.851          |                  |
| C 90             | Ship. 1        | Bars, Scrap & etc. | 71.009             | 1,338.508        |
| C 97             | 20 A           | Base Bar           | 11.855             | 11.855           |
| C 107            | 15             | 1                  | 404.706            | 404.706          |

GRAND TOTAL GOLD BARS

4,650,433.028

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SCHEDULE III

GOLD COIN

| Sheet # | Bag #     | Lot |                  | Gross Weight | Fine-ness | Fine Ozs.  |
|---------|-----------|-----|------------------|--------------|-----------|------------|
| C1      | 1-40      | A6a | U. S. \$         | 53,732.37    | 900       | 48,359.133 |
| C2      | 41-80     | "   | U. S. \$         | 53,728.53    | 900       | 48,355.677 |
| C3      | 81-120    | "   | U. S. \$         | 53,719.47    | 900       | 48,347.523 |
| C4      | 121-160   | "   | U. S. \$         | 53,729.28    | 900       | 48,356.352 |
| C5      | 161-200   | "   | U. S. \$         | 53,699.69    | 900       | 48,329.721 |
| C6      | 201-240   | "   | U. S. \$         | 53,705.79    | 900       | 48,335.211 |
| C7      | 241-280   | "   | U. S. \$         | 53,420.64    | 900       | 48,078.576 |
| C8      | 281-320   | "   | U. S. \$         | 53,720.19    | 900       | 48,348.171 |
| C9      | 321-360   | "   | U. S. \$         | 53,719.91    | 900       | 48,347.919 |
| C10     | 361-400   | "   | U. S. \$         | 53,717.86    | 900       | 48,346.074 |
| C11     | 401-440   | "   | U. S. \$         | 53,737.53    | 900       | 48,363.777 |
| C12     | 441-480   | "   | U. S. \$         | 53,722.85    | 900       | 48,350.565 |
| C13     | 481-494   | "   | U. S. \$         | 17,995.15    | 900       | 16,195.635 |
|         |           |     |                  |              |           |            |
| C14     | 525-564   | A6a | Holland Guilders | 43,190.28    | 900       | 38,871.252 |
| C15     | 565-604   | "   | Holland Guilders | 43,084.70    | 900       | 38,776.230 |
| C16     | 605-644   | "   | Holland Guilders | 43,201.40    | 900       | 38,881.260 |
| C17     | 645-656   | "   | Holland Guilders | 12,959.89    | 900       | 11,663.901 |
|         |           |     |                  |              |           |            |
| C18     | 680-719   | A6F | Reich Marks      | 51,096.48    | 900       | 45,986.832 |
| C19     | 720-759   | "   | Reich Marks      | 51,100.78    | 900       | 45,990.702 |
| C20     | 760-799   | "   | Reich Marks      | 51,096.89    | 900       | 45,987.201 |
| C21     | 800-839   | "   | Reich Marks      | 51,097.55    | 900       | 45,987.795 |
| C22     | 840-879   | "   | Reich Marks      | 51,073.98    | 900       | 45,966.582 |
| C23     | 880-919   | "   | Reich Marks      | 51,093.45    | 900       | 45,984.105 |
| C24     | 920-927   | "   | Reich Marks      | 10,220.29    | 900       | 9,198.261  |
|         |           |     |                  |              |           |            |
| C25     | 941-980   | A6c | Holland Guilders | 43,207.32    | 900       | 38,886.588 |
| C26     | 981-1020  | "   | Holland Guilders | 43,208.90    | 900       | 38,888.010 |
| C27     | 1021-1060 | "   | Holland Guilders | 43,207.37    | 900       | 38,886.639 |
| C28     | 1061-1100 | "   | Holland Guilders | 43,208.57    | 900       | 38,887.713 |
| C29     | 1101-1140 | "   | Holland Guilders | 43,205.93    | 900       | 38,885.337 |
| C30     | 1141-1158 | "   | Holland Guilders | 19,443.13    | 900       | 17,498.817 |
|         |           |     |                  |              |           |            |
| C31     | 1211-1250 | Alb | France           | 41,345.53    | 900       | 37,210.977 |
| C32     | 1251-1290 | "   | France           | 41,348.08    | 900       | 37,213.272 |
| C33     | 1291-1312 | "   | France           | 22,748.56    | 900       | 20,473.704 |
|         |           |     |                  |              |           |            |
| C34     | 1320-1348 | Alb | Holland Guilders | 31,301.16    | 900       | 28,171.044 |
|         |           |     |                  |              |           |            |
| C35     | 1361-1385 | Alb | Swiss France     | 25,703.54    | 900       | 23,133.186 |
|         |           |     |                  |              |           |            |
| C36     | 1385-1424 | Ala | U. S. \$         | 53,720.67    | 900       | 48,348.603 |
| C37     | 1425-1464 | "   | U. S. \$         | 53,721.78    | 900       | 48,349.602 |
| C38     | 1465-1504 | "   | U. S. \$         | 53,723.73    | 900       | 48,351.357 |
| C39     | 1505-1537 | "   | U. S. \$         | 44,317.45    | 900       | 39,885.705 |
|         |           |     |                  |              |           |            |
| C40     | 1545-1584 | Ala | Sovereigns       | 51,260.04    | 916.6     | 46,984.952 |
| C41     | 1585-1624 | "   | Sovereigns       | 50,773.10    | 916.6     | 46,538.623 |
| C42     | 1625-1654 | "   | Sovereigns       | 37,162.28    | 916.6     | 34,062.945 |
|         |           |     |                  |              |           |            |
| C43     | 1680-1715 | Ala | Scand. Krone     | 51,846.96    | 900       | 46,662.264 |

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SCHEDULE III

GOLD COIN

| Sheet # | Bag #      | Lot  |                       | Gross Weight | Fine-ness | Fine Cont. |
|---------|------------|------|-----------------------|--------------|-----------|------------|
| C44     | 1720-1759  | A6a  | Sovereigns            | 51,251.95    | 916.6     | 46,980.267 |
| C45     | 1760-1799  | "    | Sovereigns            | 51,176.65    | 916.6     | 46,908.517 |
| C46     | 1800-1810  | "    | Sovereigns            | 14,089.72    | 916.6     | 12,914.637 |
| C47     | 1818-1857  | A6a  | Reich Marks           | 50,953.50    | 900       | 45,858.150 |
| C48     | 1858-1897  | "    | Reich Marks           | 51,210.43    | 900       | 46,089.387 |
| C49     | 1898-1935  | "    | Reich Marks           | 48,053.59    | 900       | 43,248.231 |
| C50     | 1935-1974  | A7a  | Austrian Kronen       | 43,529.16    | 900       | 39,176.244 |
| C51     | 1975-2014  | "    | Austrian Kronen       | 43,531.79    | 900       | 39,178.611 |
| C52     | 2015-2021  | "    | Austrian Kronen       | 6,747.96     | 900       | 6,073.164  |
| C52     | 2031-2037  | A7a  | U. S. \$              | 9,079.57     | 900       | 8,171.613  |
| C53     | 2040-2079  | A15a | France (Italian Lire) | 41,436.52    | 900       | 37,292.868 |
| C54     | 2080-2119  | "    | France (Mixed)        | 41,423.33    | 900       | 37,280.997 |
| C55     | 2120-2159  | "    | France (Mixed)        | 40,811.28    | 900       | 36,730.152 |
| C56     | 2160-2199  | "    | France (Mixed)        | 40,807.72    | 900       | 36,726.948 |
| C57     | 2200-2239  | "    | France (Mixed)        | 41,431.95    | 900       | 37,288.755 |
| C58     | 2240-2279  | "    | France (Mixed)        | 41,422.01    | 900       | 37,279.809 |
| C59     | 2280-2319  | "    | France (French)       | 41,428.13    | 900       | 37,285.317 |
| C60     | 2320-2327  | "    | France (French)       | 8,283.03     | 900       | 7,454.727  |
| C61     | 2360-2399  | A7f  | Austrian Kronen       | 43,465.59    | 900       | 39,119.031 |
| C62     | 2400-2439  | "    | Austrian Kronen       | 43,466.19    | 900       | 39,119.571 |
| C63     | 2440-2479  | "    | Austrian Kronen       | 43,270.07    | 900       | 38,943.063 |
| C64     | 2480-2497  | "    | Austrian Kronen       | 19,558.83    | 900       | 17,602.947 |
| C64     | 2498-2513  | A7f  | U. S. \$              | 21,195.19    | 900       | 19,075.671 |
| C64     | 2514-2519  | A7f  | Aust-Czech Ducats     | 6,348.00     | 986.1     | 6,259.762  |
| C65     | 2521-24-25 | "    | Aust-Czech Ducats     | 3,366.68     | 986.1     | 3,319.883  |
| C65     | 2520-22-23 | A7f  | Assorted Ducats       | 3,365.54     | 983       | 3,308.325  |
| C65     | 2526-2532  | A7f  | Sovereigns            | 8,313.28     | 916.6     | 7,619.952  |
| C65     | 2547       | A7f  | France (Assorted)     | 3,273.24     | 900       | 2,945.916  |
| C65     | 2596-37    | A7f  | Turkish Pounds        | 2,307.63     | 916.6     | 2,115.173  |
| C65     | 2538-39    | A7f  | Reich Marks           | 1,925.73     | 900       | 1,733.157  |
| C65     | 2540-42    | A7f  | Austrian Schillings   | 2,976.98     | 900       | 2,679.282  |
| C65     | 2543       | A7f  | Russian Rubels        | 1,097.36     | 900       | 987.624    |
| C65     | 2544       | A7f  | Holland Guilders      | 371.72       | 900       | 334.548    |
| C65     | 2545       | A7f  | Scand. Krone          | 376.70       | 900       | 339.030    |
| C65     | 2548       | A7f  | U. S. \$              | 144.75       | 900       | 130.275    |
| C66     | 2579-2599  | A8c  | Austrian Kronen       | 2,174.88     | 900       | 1,957.392  |

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SCHEDULE III

GOLD COIN

| Sheet # | Bag #      | Lot  |                  | Gross Weight | Fine-ness | Fine Grams |
|---------|------------|------|------------------|--------------|-----------|------------|
| 066     | 2560-2578  |      |                  |              |           |            |
|         | 2580-2598  | A8c  | France (Mixed)   | 38,808.08    | 900       | 34,927.272 |
| 067     | 2600-2614  |      |                  |              |           |            |
|         | 2616-2619  |      |                  |              |           |            |
|         | 2624       |      |                  |              |           |            |
|         | 2632-39    | A8c  | France (Mixed)   | 29,394.73    | 900       | 26,455.257 |
| 067     | 2615       |      |                  |              |           |            |
|         | 2620-2623  | A8c  | Kronen           | 5,383.56     | 900       | 4,845.204  |
| 067     | 2625-2631  | A8c  | Turkish Pounds   | 8,078.66     | 916.6     | 7,404.899  |
| 068     | 2640-2649  |      |                  |              |           |            |
|         | 2663       | A8c  | France           | 11,388.95    | 900       | 10,250.055 |
| 068     | 2650-2655  |      |                  |              |           |            |
|         | 2657-2660  |      |                  |              |           |            |
|         | 2662       | A8c  | Turkish Pounds   | 12,566.74    | 916.6     | 11,518.673 |
| 068     | 2656       |      |                  |              |           |            |
|         | 2664       | A8c  | Kronen           | 2,176.42     | 900       | 1,958.775  |
| 068     | 2661       |      |                  |              |           |            |
|         | 2665       | A8c  | Ducats           | 2,229.95     | 983       | 2,192.040  |
| 069     | 2670-74    |      |                  |              |           |            |
|         | 2676-82    |      |                  |              |           |            |
|         | 2684, 2686 |      |                  |              |           |            |
|         | 2687 2706  |      |                  |              |           |            |
|         | 2689-92    |      |                  |              |           |            |
|         | 2696-2700  |      |                  |              |           |            |
|         | 2702-2704  | A15a | France           | 27,944.61    | 900       | 25,150.149 |
|         | 2708-2709  | A15a | France           | 3,106.48     | 900       | 2,795.832  |
| 069     | 2675       |      |                  |              |           |            |
|         | 2705-2707  | A8c  | U. S. \$         | 3,489.90     | 900       | 3,140.910  |
| 069     | 2683       | A15a | Turkish Pounds   | 1,154.24     | 916.6     | 1,057.976  |
| 069     | 2685       |      |                  |              |           |            |
|         | 2693-2695  |      |                  |              |           |            |
|         | 2701       | A15a | Sovereigns       | 6,635.13     | 916.6     | 6,081.760  |
| 070     | 2710       |      |                  |              |           |            |
|         | 2712-2717  |      |                  |              |           |            |
|         | 2719-2723  |      |                  |              |           |            |
|         | 2725-2726  | A15a | U. S. \$         | 17,998.48    | 900       | 16,198.632 |
| 070     | 2711       |      |                  |              |           |            |
|         | 2736-45    | A15a | France           | 11,391.90    | 900       | 10,252.710 |
| 070     | 2718, 2724 |      |                  |              |           |            |
|         | 2727-2731  |      |                  |              |           |            |
|         | 2733-2735  | A15a | Sovereigns       | 12,277.93    | 916.6     | 11,253.950 |
| 070     | 2732       | A15a | Kronen           | 1,088.07     | 900       | 979.263    |
| 071     | 2750-2789  | A7c  | Holland Guilders | 43,208.71    | 900       | 38,887.839 |
| 072     | 2790-2800  | A7c  | Holland Guilders | 11,881.71    | 900       | 10,693.539 |
| 072     | 2801-2829  | A7c  | Ducats           | 32,521.99    | 983       | 31,969.116 |
| 073     | 2830-2838  | A7c  | Ducats           | 9,537.54     | 983       | 9,375.401  |

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SCHEDULE III

GOLD COIN

| Sheet # | Bag #                  | Lot  |                    | Gross Weight | Fine-ness | Fine Ozs.  |
|---------|------------------------|------|--------------------|--------------|-----------|------------|
| 073     | 2839-2868              | A7c  | France Misc.       | 31,271.11    | 900       | 28,143.999 |
| 073     | 2869                   | A7c  | Austrian Shillings | 756.23       | 900       | 680.607    |
| 074     | 2870-2880              | A7c  | Austrian Shillings | 10,398.04    | 900       | 9,358.236  |
| 074     | 2881                   | A7c  | Scand. Krone       | 861.00       | 900       | 777.600    |
| 074     | 2882-2909              | A15c | France             | 29,006.19    | 900       | 26,105.571 |
| 075     | 2910-2949              | A15c | France             | 41,016.70    | 900       | 36,915.030 |
| 076     | 2950-2961              | A15c | France             | 12,430.18    | 900       | 11,187.162 |
| 076     | 2962                   | A15c | France             | 1,036.77     | 900       | 933.093    |
| 076     | 2963-2989              | A15c | Turkish Pounds     | 31,166.77    | 916.6     | 28,567.461 |
| 077     | 2990-3013              | A15c | Turkish Pounds     | 27,210.53    | 916.6     | 24,941.171 |
| 077     | 3014-3029              | A15c | Ducats, Misc.      | 17,872.19    | 983       | 17,568.362 |
| 078     | 3030-3033              | A15c | Ducats, Misc.      | 3,718.68     | 983       | 3,655.462  |
| 078     | 3034-3050<br>3052-3056 | A15c | Kronen             | 23,284.45    | 900       | 20,956.005 |
| 078     | 3051<br>3055-56        | A15c | Sovereigns         | 3,039.65     | 916.6     | 2,786.149  |
| 078     | 3057-64                | A15c | U. S. \$           | 9,665.65     | 900       | 8,699.085  |
| 079     | 3070-89                | A14c | France             | 20,492.85    | 900       | 18,443.565 |
| 079     | 3090-94                | A14c | Ducats, Misc.      | 5,187.62     | 983       | 5,099.430  |
| 079     | 3095-96                | A14c | Turkish Pounds     | 2,307.04     | 916.6     | 2,114.632  |
| 079     | 3097-98                | A14c | U. S. \$           | 2,683.66     | 900       | 2,415.294  |
| 080     | 3100-3115              | A6d  | Reich Marks        | 19,927.41    | 900       | 17,934.669 |
| 080     | 3116-3126<br>3128-3139 | A14d | Holland Guilders   | 25,036.26    | 900       | 22,532.634 |
| 081     | 3140-3146              | A14d | Holland Guilders   | 7,559.47     | 900       | 6,809.523  |
| 080     | 3147                   | A14c | Holland Ducats     | 1,122.80     | 983       | 1,109.712  |
| 081     | 3147-50                | A14d | Reich Marks        | 4,463.53     | 900       | 4,017.177  |
| 081     | 3177-79                | A14c | Holland Guilders   | 3,240.81     | 900       | 2,916.729  |
| 081     | 3151-3167<br>3175-76   | A14c | France             | 19,037.94    | 900       | 17,134.146 |
| 082     | 3184-88                | A14c | France             | 5,805.20     | 900       | 5,224.680  |
| 081     | 3168-74                | A14c | Sovereigns         | 9,107.33     | 916.6     | 8,347.770  |
| 082     | 3180-82                | A14c | Holland Guilders   | 2,808.26     | 900       | 2,527.434  |
| 082     | 3189-3201              | A14c | U. S. \$           | 14,342.39    | 900       | 12,908.151 |
| 082     | 3202-04                | A14c | Russian Rubels     | 3,305.01     | 900       | 2,974.509  |
| 082     | 3205                   | A14c | Austrian Schilling | 869.93       | 900       | 782.937    |
| 082     | 3206-3212<br>3213      | A15b | Holland Guilders   | 6,048.95     | 900       | 5,444.055  |
| 082     |                        | A15b | Holland Guilders   | 864.22       | 900       | 777.798    |

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SCHEDULE III

GOLD COIN

| Sheet #      | Bag #              | Lot  |                    | Gross Weight | Fine-ness | Fine Ozm.  |
|--------------|--------------------|------|--------------------|--------------|-----------|------------|
| 082          | 3214-3219          | A15b | France             | 4,762.34     | 900       | 4,286.106  |
| 083          | 3220-23            | A15b | U. S. \$           | 3,760.79     | 900       | 3,384.657  |
| 083          | 3224-27            | A15b | Sovereigns         | 3,087.08     | 916.6     | 2,829.617  |
| 083          | 3234-49            | A1d  | Sovereigns         | 29,499.92    | 916.6     | 18,790.226 |
| 083          | 3229-33            | A1d  | Turkish Pounds     | 6,924.84     | 916.6     | 6,347.308  |
| 083          | 3250-51            | A1d  | Reich Marks        | 2,545.10     | 900       | 2,290.590  |
| 083          | 3252               | A1d  | Columbia Pesos     | 1,282.00     | 900       | 1,153.800  |
| 083          | 3253               | A1d  | Mexican Pesos      | 1,338.40     | 900       | 1,204.560  |
| 083          | 3254               | A1d  | France             | 1,035.61     | 900       | 932.049    |
| 083          | 3255-59            | A7b  | France             | 4,554.04     | 900       | 4,098.636  |
| 084          | 3260               |      |                    |              |           |            |
|              | 3265-66            | A7b  | France             | 2,199.17     | 900       | 1,979.253  |
| 084          | 3267-79            | A7b  | Sovereigns         | 16,588.73    | 916.6     | 15,205.229 |
| 084          | 3260-99            |      | U. S. \$           | 26,771.45    | 900       | 24,094.305 |
| 085          | 3300-3307          |      | U. S. \$           | 10,072.12    | 900       | 9,064.908  |
| 085          | 3308-3329          |      | France             | 22,779.44    | 900       | 20,501.496 |
| 085          | 3329-34<br>3336-39 |      | Holland Guilders   | 9,713.79     | 900       | 8,742.411  |
| 085          | 3335               |      | Turkish Pounds     | 1,154.98     | 916.6     | 1,058.104  |
| 086          | 3340<br>3356       |      | Holland Guilders   | 2,160.13     | 900       | 1,944.117  |
| 086          | 3341-49            |      | Reich Marks        | 11,497.65    | 900       | 10,347.885 |
| 086          | 3350-53            |      | Austrian Kronen    | 4,354.66     | 900       | 3,919.194  |
| 086          | 3354               |      | Austrian Shillings | 945.31       | 900       | 850.779    |
| 086          | 3355               |      |                    |              |           |            |
| 086          | 3357-59            |      | Scand. Kronen      | 5,761.11     | 900       | 5,184.999  |
| 086          | 3364-67            |      | Russian Rubels     | 5,590.25     | 900       | 5,031.225  |
| 086          | 3360-61            |      | Ducats Misc.       | 2,293.01     | 900       | 2,195.048  |
| 086          | 3362-63<br>3368    |      |                    |              |           |            |
|              | 3378               |      | Turkish Pounds     | 4,379.64     | 916.6     | 4,014.378  |
| 086          | 3369-78            |      | Sovereigns         | 12,806.52    | 916.6     | 11,798.456 |
| 088          | 3400-3442          |      | Misc. Coin         |              | 900       | 21,691.252 |
| 090          | 4000               | A14e | Misc. Coin         |              | Various   | 4,001.846  |
| 091          | A1-A10             | A1b. | France Mixed       |              | 900       | 4,005.972  |
| SHIPMENT 27A |                    |      |                    |              |           |            |
| 092          | 5000-5023          |      | France             | 24,501.81    | 900       | 22,051.629 |
| 092          | 5024-5026          |      | Turkish Pounds     | 3,462.62     | 916.6     | 3,173.837  |
| 092          | 5027-5037          |      | Sovereigns         | 11,897.01    | 916.6     | 10,904.799 |

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SCHEDULE III

GOLD COIN

| Sheet # | Bag #                                     | Lot |                                 | Gross Weight | Fine Mass | Fine Ounces |
|---------|---|-----|---------------------------------|--------------|-----------|-------------|
| 093     | 6006-6027                                 |     | SHIPMENT 270<br>France          | 27,945.38    | 900       | 25,150.842  |
| 094     | 7000-7018                                 |     | SHIPMENT 15<br>U. S. \$         | 25,335.39    | 900       | 22,801.851  |
| 094     | 7020                                      |     | Mixed, U S \$, Sov. Pce         | 537.30       | 900       | 489.570     |
| 094     | 7019 )<br>7021-7025 )<br>7035-7036 )      |     | Sovereigns                      | 19,741.39    | 916.6     | 12,593.358  |
| 094     | 7030-7033                                 |     | Dutch Florins                   | 4,104.13     | 900       | 3,699.717   |
| 094     | 7034                                      |     | Dutch Ducats                    | 112.25       | 983       | 110.341     |
| 095     | 5500-5509                                 |     | SHIPMENT 4<br>U. S. \$          | 13,451.62    | 900       | 12,088.458  |
| 095     | 5510-5522                                 |     | Scand. Kroon                    | 10,366.32    | 900       | 9,329.488   |
| 095     | 5523-5525                                 |     | Dutch Florins                   | 2,126.07     | 900       | 1,913.463   |
| 095     | 5526-5527                                 |     | Austrian Kronen                 | 2,182.74     | 900       | 1,964.466   |
| 096     | 6500-6514 )<br>6520-6529 )<br>6533-6539 ) |     | SHIPMENT NO. 20A<br>France      | 16,253.70    | 900       | 14,628.300  |
| 096     | 6515-6516                                 |     | U. S. \$                        | 2,632.27     | 900       | 2,414.043   |
| 096     | 6517-6519                                 |     | Sovereigns                      | 3,076.79     | 916.6     | 2,816.352   |
| 096     | 6520-6521 )<br>6521                       |     | Austrian Ducats                 | 2,466.20     | 986.1     | 2,431.919   |
| 096     | 6522-6523                                 |     | Reich Marks                     | 2,611.58     | 900       | 2,350.422   |
| 096     | 6530-6532 )<br>6525-6526 )                |     | Hungarian Kr.                   | 2,065.82     | 900       | 1,855.238   |
| 096     | 6527                                      |     | Turkish pounds                  | 924.00       | 916.6     | 846.938     |
| 096     | 6531                                      |     | Austrian Sch.                   | 189.02       | 900       | 170.118     |
| 096     | 6534, 6536                                |     | Austrian Ducats                 | 946.87       | 986.1     | 933.728     |
| 096     | 6535                                      |     | Russian Rubels                  | 276.44       | 900       | 248.796     |
| 096     | 6537-6538                                 |     | Mixed coins                     | 1,640.31     | 900       | 1,476.279   |
| 097     | 6540-6550                                 |     | Mixed coins                     |              |           | 1,624.339   |
| 098     | 6600-6619                                 |     | SHIPMENT NO. 52B<br>Reich Marks |              |           | 29,020.722  |
| 099     | 6700-6704                                 |     | SHIPMENT NO. 52A<br>Reich Marks |              |           | 5,597.387   |
| 099     | 6737-6739                                 |     | SHIPMENT NO. 20C<br>Mixed coins |              |           | 1,643.400   |

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GOLD COIN

| <u>REPORT NO.</u> | <u>SIG. NO.</u> | <u>LOT NO.</u>                                      | <u>ORIGIN</u>     | <u>WEIGHT</u> | <u>PURCH. PRICE</u> | <u>REAL AMOUNT</u> |
|-------------------|-----------------|---|-------------------|---------------|---------------------|--------------------|
|                   |                 |   | SHIPMENT NO. 1    |               |                     |                    |
| C 100             | C 1/39          | A6 A )<br>A1 C )                                    | Dutch Guilders    | 42,124.35     | 900                 | 37,911.910         |
| C 101             | C 140/66        | A1 C )<br>A1 B )<br>A7 C )                          | Dutch Guilders    | 28,297.40     | 900                 | 25,467.660         |
| C 101             | C 67/79         | A15 D   | Italian Lire      | 13,466.52     | 900                 | 12,119.868         |
| C 102             | C 80/119        | A15 D   | France            | 41,440.32     | 900                 | 37,296.735         |
|                   |                 | A15 D )<br>A15 A )<br>A 8 C )<br>A 7 B )<br>A 7 B ) | France            | 38,211.15     | 900                 | 34,480.025         |
| C 103             | C 120/156       | A 1 A   | Sovereigns        | 3,415.51      | 916.6               | 3,524.794          |
| C 103             | C 157/9         | A1 B, etc   | Sovereigns        | 29,460.75     | 916.6               | 27,009.229         |
| C 104             | C 160/32        |   |                   |               |                     |                    |
|                   |                 | A7 A )<br>A7 F )                                    | Austrian Kronen   | 18,476.09     | 900                 | 16,620.481         |
| C 104             | C 183/99        | A7 F )  | "                 | 6,732.48      | 986.1               | 6,638.898          |
| C 105             | C 200/5         | A6 F  | Mixed Ducats      | 2,551.94      | 900                 | 2,299.446          |
| C 105             | C 206/7         | A15 A, etc  | W. S. \$          | 8,862.71      | 900                 | 7,976.439          |
| C 105             | C 215           | ?   | Dutch Guilders    | 1,000.25      | 900                 | 972.225            |
| C 105             | C 216           | ?   | Mixed Coins       | 834.55        | 900                 | 751.095            |
| C 106             | B 1/18          | ?   | Mixed Coins       | 11,530.00     | 900                 | 10,377.000         |
|                   |                 |   | SHIPMENT NO. 21 K |               |                     |                    |
| C 106             | B 22            | ?   | Gold Medallions   | 31.17         | 900.0               | 1,220.055          |
| C 107             | 1/29            |   | SHIPMENT NO. 15   |               |                     |                    |
| C 108             | 32/63           |   | Mixed Coins       |               | various             | 1,257.366          |
|                   |                 |   | Mixed Coins       |               | various             | 2,211.294          |
|                   |                 |   | SHIPMENT NO. 1    |               |                     |                    |
| C 105             |                 |   | Mixed Coins       | 15.55         | 900                 | 13.995             |

GRAND TOTAL GOLD  
 Coins found subsequently

3,760,732.854  
 1,221  
3,760,734.075

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SCHEDULE IV

GOLD COIN

| <u>SHEET NO.</u> | <u>U. S. DOLLARS</u> | <u>FINE OUNCES</u> | <u>TOTAL</u> |
|------------------|----------------------|--------------------|--------------|
| 0 1              |                      | 48,359.133         |              |
| 0 2              |                      | 48,355.677         |              |
| 0 3              |                      | 48,347.523         |              |
| 0 4              |                      | 48,356.352         |              |
| 0 5              |                      | 48,329.721         |              |
| 0 6              |                      | 48,395.211         |              |
| 0 7              |                      | 48,078.576         |              |
| 0 8              |                      | 48,348.171         |              |
| 0 9              |                      | 48,347.919         |              |
| 0 10             |                      | 48,346.074         |              |
| 0 11             |                      | 48,369.777         |              |
| 0 12             |                      | 48,350.565         |              |
| 0 13             |                      | 16,195.635         |              |
| 0 36             |                      | 48,348.603         |              |
| 0 37             |                      | 48,349.602         |              |
| 0 38             |                      | 48,351.357         |              |
| 0 39             |                      | 39,885.705         |              |
| 0 52             |                      | 8,171.613          |              |
| 0 64             |                      | 19,075.671         |              |
| 0 65             |                      | 130.275            |              |
| 0 69             |                      | 3,140.910          |              |
| 0 70             |                      | 16,198.632         |              |
| 0 78             |                      | 8,699.085          |              |
| 0 79             |                      | 2,415.294          |              |
| 0 82             |                      | 12,908.151         |              |
| 0 83             |                      | 3,384.657          |              |
| 0 84             |                      | 24,094.305         |              |
| 0 85             |                      | 9,064.908          |              |
| 0 90             |                      | 467.208            |              |
| 0 90             |                      | 58.023             |              |
| 0 90             |                      | 330.165            |              |
| 0 105            |                      | 7,976.439          | 897,164.937  |

SOVEREIGNS

|       |  |            |             |
|-------|--|------------|-------------|
| 0 40  |  | 46,984.952 |             |
| 0 41  |  | 46,538.623 |             |
| 0 42  |  | 34,062.945 |             |
| 0 44  |  | 46,980.287 |             |
| 0 45  |  | 46,908.517 |             |
| 0 46  |  | 12,914.637 |             |
| 0 65  |  | 7,619.952  |             |
| 0 69  |  | 6,081.760  |             |
| 0 70  |  | 11,253.950 |             |
| 0 78  |  | 2,786.143  |             |
| 0 81  |  | 8,347.778  |             |
| 0 83  |  | 2,829.617  |             |
| 0 83  |  | 18,790.226 |             |
| 0 84  |  | 15,205.229 |             |
| 0 86  |  | 11,738.456 |             |
| 0 88  |  | 532.379    |             |
| 0 88  |  | 1,305.485  |             |
| 0 88  |  | 281.661    |             |
| 0 103 |  | 3,524.794  |             |
| 0 104 |  | 27,009.223 | 351,696.834 |

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GOLD COIN

| <u>CHEST</u><br><u>NO.</u> |  | <u>FINE</u><br><u>UNCLES</u> | <u>TOTAL</u> |
|----------------------------|--|------------------------------|--------------|
| <b>DUTCH GUILDERS</b>      |  |                              |              |
| C 14                       |  | 38,871.252                   |              |
| C 15                       |  | 38,776.230                   |              |
| C 16                       |  | 38,881.260                   |              |
| C 17                       |  | 11,669.901                   |              |
| C 25                       |  | 38,886.588                   |              |
| C 26                       |  | 38,888.010                   |              |
| C 27                       |  | 38,886.633                   |              |
| C 28                       |  | 38,887.713                   |              |
| C 29                       |  | 38,885.337                   |              |
| C 30                       |  | 17,498.817                   |              |
| C 34                       |  | 28,171.044                   |              |
| C 65                       |  | 334.548                      |              |
| C 71                       |  | 38,887.839                   |              |
| C 72                       |  | 10,699.539                   |              |
| C 80                       |  | 22,532.634                   |              |
| C 81                       |  | 6,809.523                    |              |
| C 81                       |  | 2,916.729                    |              |
| C 82                       |  | 2,527.434                    |              |
| C 82                       |  | 5,444.055                    |              |
| C 82                       |  | 777.798                      |              |
| C 85                       |  | 8,742.411                    |              |
| C 86                       |  | 1,944.117                    |              |
| C 88                       |  | 510.219                      |              |
| C 88                       |  | 971.865                      |              |
| C 90                       |  | 255.843                      |              |
| C 100                      |  | 37,911.910                   |              |
| C 101                      |  | 25,467.660                   |              |
| C 105                      |  | 972.225                      | 535,991.134  |
| <b>FRANCE MARKS</b>        |  |                              |              |
| C 18                       |  | 45,986.832                   |              |
| C 19                       |  | 45,990.702                   |              |
| C 20                       |  | 45,987.201                   |              |
| C 21                       |  | 45,987.795                   |              |
| C 22                       |  | 45,966.582                   |              |
| C 23                       |  | 45,984.105                   |              |
| C 24                       |  | 9,198.261                    |              |
| C 47                       |  | 45,858.150                   |              |
| C 48                       |  | 46,089.987                   |              |
| C 49                       |  | 43,248.231                   |              |
| C 65                       |  | 1,739.157                    |              |
| C 81                       |  | 4,017.177                    |              |
| C 83                       |  | 2,290.590                    |              |
| C 86                       |  | 10,347.885                   |              |
| C 88                       |  | 190.629                      |              |
| C 88                       |  | 265.455                      |              |
| C 80                       |  | 17,934.669                   |              |
| C 105                      |  | 2,299.446                    | 459,376.254  |
| <b>FRANCE</b>              |  |                              |              |
| C 31                       |  | 37,210.977                   |              |
| C 32                       |  | 37,219.272                   |              |
| C 33                       |  | 20,473.704                   |              |
| C 53                       |  | 37,292.868                   |              |
| C 54                       |  | 37,280.997                   |              |
| C 55                       |  | 36,730.152                   |              |
| C 56                       |  | 36,726.948                   |              |

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GOLD COIN

SHEET  
No.

FINE OUNCES

TOTAL

FRANCH (Cont'd)

|                  |     |            |             |
|------------------|-----|------------|-------------|
| C                | 57  | 37,288.755 |             |
| C                | 58  | 37,279.809 |             |
| C                | 59  | 37,285.317 |             |
| C                | 60  | 7,454.727  |             |
| C                | 65  | 2,945.916  |             |
| C                | 66  | 34,927.272 |             |
| C                | 67  | 26,455.257 |             |
| C                | 68  | 10,250.055 |             |
| C                | 69  | 25,150.149 |             |
| C                | 69  | 2,795.892  |             |
| C                | 70  | 10,252.710 |             |
| C                | 73  | 28,143.999 |             |
| C                | 74  | 26,105.571 |             |
| C                | 75  | 36,915.030 |             |
| C                | 76  | 11,187.162 |             |
| C                | 76  | 933.093    |             |
| C                | 79  | 10,443.565 |             |
| C                | 81  | 17,134.146 |             |
| C                | 82  | 5,224.680  |             |
| C                | 82  | 4,286.106  |             |
| C                | 83  | 932.049    |             |
| C                | 83  | 4,098.636  |             |
| C                | 84  | 1,979.253  |             |
| C                | 85  | 20,501.496 |             |
| C                | 88  | 150.993    |             |
| C                | 88  | 930.879    |             |
| C                | 88  | 1,062.603  |             |
| C                | 88  | 931.014    |             |
| C                | 88  | 1,138.050  |             |
| C                | 88  | 1,153.350  |             |
| C                | 88  | 577.935    |             |
| C                | 88  | 489.627    |             |
| C                | 88  | 254.556    |             |
| C                | 88  | 300.312    |             |
| C                | 90  | 352.764    |             |
| C                | 91  | 933.273    |             |
| C                | 91  | 559.539    |             |
| C                | 91  | 373.365    |             |
| C                | 91  | 372.924    |             |
| C                | 91  | 373.446    |             |
| C                | 91  | 186.165    |             |
| C                | 91  | 373.401    |             |
| C                | 91  | 554.571    |             |
| C                | 91  | 94.302     |             |
| C                | 91  | 184.896    |             |
| C                | 101 | 12,119.868 |             |
| C                | 102 | 37,296.738 |             |
| C                | 103 | 34,480.035 | 746,144.199 |
|                  |     |            |             |
| SCANDINAVIAN KR. |     |            |             |
| C                | 43  | 46,662.264 |             |
| C                | 65  | 339.030    |             |
| C                | 74  | 777.600    |             |
| C                | 86  | 5,184.999  |             |
| C                | 88  | 284.562    | 53,248.455  |

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GOLD COIN

| <u>SHEET</u><br><u>NO.</u> |                                    | <u>FINE OUNCE</u> | <u>TOTAL</u> |
|----------------------------|------------------------------------|-------------------|--------------|
|                            | <b>SWISS FRANCS</b>                |                   |              |
| 0 35                       |                                    | 23,133.186        | 23,133.186   |
|                            | <b>AUSTRIAN KRONEN</b>             |                   |              |
| 0 50                       |                                    | 39,176.244        |              |
| 0 51                       |                                    | 39,170.611        |              |
| 0 52                       |                                    | 6,073.164         |              |
| 0 61                       |                                    | 39,119.031        |              |
| 0 62                       |                                    | 39,119.571        |              |
| 0 63                       |                                    | 38,943.063        |              |
| 0 64                       |                                    | 17,602.947        |              |
| 0 66                       |                                    | 1,957.392         |              |
| 0 86                       |                                    | 3,919.194         |              |
| 0 67                       |                                    | 4,815.204         |              |
| 0 68                       |                                    | 1,958.778         |              |
| 0 70                       |                                    | 979.263           |              |
| 0 78                       |                                    | 20,956.005        |              |
| 0 88                       |                                    | 575.199           |              |
| 0 104                      |                                    | 16,628.481        | 271,032.147  |
|                            | <b>AUSTRIAN &amp; CZECH DUCATS</b> |                   |              |
| 0 64                       |                                    | 6,259.762         |              |
| 0 65                       |                                    | 3,319.883         |              |
| 0 90                       |                                    | 110.631           | 9,690.276    |
|                            | <b>DUTCH AND MIXED DUCATS</b>      |                   |              |
| 0 65                       |                                    | 3,308.325         |              |
| 0 68                       |                                    | 2,192.040         |              |
| 0 72                       |                                    | 31,969.116        |              |
| 0 73                       |                                    | 9,375.401         |              |
| 0 77                       |                                    | 17,562.362        |              |
| 0 78                       |                                    | 3,655.462         |              |
| 0 79                       |                                    | 5,099.430         |              |
| 0 80                       |                                    | 1,103.712         |              |
| 0 86                       |                                    | 2,195.048         |              |
| 0 88                       |                                    | 377.619           |              |
| 0 88                       |                                    | 618.464           |              |
| 0 88                       |                                    | 236.529           |              |
| 0 105                      |                                    | 6,638.898         | 84,358.406   |
|                            | <b>TURKISH POUNDS</b>              |                   |              |
| 0 65                       |                                    | 2,115.173         |              |
| 0 67                       |                                    | 7,404.899         |              |
| 0 68                       |                                    | 11,518.673        |              |
| 0 69                       |                                    | 1,057.976         |              |
| 0 76                       |                                    | 28,567.461        |              |
| 0 77                       |                                    | 24,941.171        |              |
| 0 79                       |                                    | 2,114.692         |              |
| 0 83                       |                                    | 6,347.308         |              |
| 0 85                       |                                    | 1,058.104         |              |
| 0 86                       |                                    | 4,014.378         |              |
| 0 88                       |                                    | 211.606           |              |
| 0 90                       |                                    | 211.748           | 89,563.129   |

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GOLD COIN

| <u>SHEET NO.</u>                     |                         | <u>FINE OUNCES</u> | <u>TOTAL</u> | <u>TOTAL SHIPMENT NO. 1</u> |
|--------------------------------------|-------------------------|--------------------|--------------|-----------------------------|
| <u>AUSTRIAN SCHILLINGS</u>           |                         |                    |              |                             |
| C 65                                 |                         | 2,679.282          |              |                             |
| C 79                                 |                         | 680.607            |              |                             |
| C 74                                 |                         | 9,358.236          |              |                             |
| C 82                                 |                         | 782.937            |              |                             |
| C 86                                 |                         | 850.779            |              |                             |
| C 88                                 |                         | 141.390            |              |                             |
| C 90                                 |                         | 290.115            | 14,783.346   |                             |
| <u>RUSSIAN ROUBLES</u>               |                         |                    |              |                             |
| C 65                                 |                         | 987.624            |              |                             |
| C 82                                 |                         | 2,974.509          |              |                             |
| C 86                                 |                         | 5,031.225          |              |                             |
| C 88                                 |                         | 209.277            |              |                             |
| C 88                                 |                         | 485.874            |              |                             |
| C 88                                 |                         | 886.860            | 10,575.369   |                             |
| <u>MISCELLANEOUS AND MIXED COINS</u> |                         |                    |              |                             |
| C 83                                 | Colombian Pesos         | 1,159.800          |              |                             |
| C 83                                 | Mexican Pesos           | 1,204.560          |              |                             |
| C 88                                 | Mixed Coins             | 996.534            |              |                             |
| C 88                                 | Mixed Coins             | 543.933            |              |                             |
| C 88                                 | Mixed Coins             | 201.636            |              |                             |
| C 88                                 | Cuban Pesos             | 483.525            |              |                             |
| C 88                                 | Chilean Pesos           | 408.483            |              |                             |
| C 88                                 | Peruvian Pounds         | 470.243            |              |                             |
| C 88                                 | Mixed                   | 402.688            |              |                             |
| C 88                                 | Mixed Coin              | 1,047.177          |              |                             |
| C 88                                 | Mixed Coin              | 1,982.421          |              |                             |
| C 90                                 | Argentine Pesos         | 232.812            |              |                             |
| C 90                                 | Mexican Pesos           | 661.122            |              |                             |
| C 90                                 | Mixed Coin              | 38.133             |              |                             |
| C 90                                 | Mixed Coin              | 21.717             |              |                             |
| C 90                                 | Mixed Coin              | 43.704             |              |                             |
| C 90                                 | Mixed So. American Coin | 261.225            |              |                             |
| C 90                                 | Danzig Guilders         | 6.590              |              |                             |
| C 90                                 | Peruvian Pounds         | 91.336             |              |                             |
| C 90                                 | Miscellaneous medals    | 568.710            |              |                             |
| C 105                                | Mixed Coin              | 751.095            |              |                             |
| C 106                                | Mixed Coin              | 10,377.000         | 22,028.444   | 3,568,766.216               |

MISCELLANEOUS SHIPMENTS

| <u>SHEET NO.</u>  | <u>SHIPMENT NO.</u> | <u>FINE OUNCES</u> | <u>TOTAL</u> | <u>TOTAL ODD SHIPMENTS</u> |
|-------------------|---------------------|--------------------|--------------|----------------------------|
| <u>U. S. \$</u>   |                     |                    |              |                            |
| C 94              | 15                  | 22,801.851         |              |                            |
| C 95              | 4                   | 12,088.458         |              |                            |
| C 96              | 20 A                | 2,414.043          | 37,304.352   |                            |
| <u>SOVEREIGNS</u> |                     |                    |              |                            |
| C 92              | 27 A                | 10,904.799         |              |                            |
| C 94              | 15                  | 12,595.358         |              |                            |
| C 96              | 20 A                | 2,618.352          | 26,318.509   |                            |

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GOLD COIN

| <u>SHEET NO.</u>                        | <u>SHIPMENT NO.</u> | <u>FINE OUNCES</u>  | <u>TOTAL</u> | <u>TOTAL OGP SHIPMENTS</u> |
|---|---------------------|---------------------|--------------|----------------------------|
| <b>MISCELLANEOUS SHIPMENTS (cont'd)</b> |                     |                     |              |                            |
| <b>FRANCE</b>                           |                     |                     |              |                            |
| O 92                                    | 27 A                | 22,051.629          |              |                            |
| O 93                                    | 27 C                | 25,150.842          |              |                            |
| O 96                                    | 20 A                | 14,628.330          | 61,830.801   |                            |
| <b>TURKISH POUNDS</b>                   |                     |                     |              |                            |
| O 92                                    | 27 A                | 3,173.837           |              |                            |
| O 96                                    | 20 A                | 846.938             | 4,020.775    |                            |
| <b>DUTCH FLORINS</b>                    |                     |                     |              |                            |
| O 94                                    | 15                  | 3,693.717           |              |                            |
| O 95                                    | 4                   | 1,913.463           | 5,607.180    |                            |
| <b>AUSTRIAN DUCATS</b>                  |                     |                     |              |                            |
| O 96                                    | 20 A                | 2,431.919           |              |                            |
| O 96                                    | 20 A                | 933.728             | 3,365.647    |                            |
| <b>NETHERLANDS</b>                      |                     |                     |              |                            |
| O 96                                    | 20 A                | 2,350.422           |              |                            |
| O 98                                    | 52 B                | 23,020.722          |              |                            |
| O 99                                    | 52 A                | 5,697.387           | 31,068.531   |                            |
| <b>MISCELLANEOUS</b>                    |                     |                     |              |                            |
| O 94                                    | 15                  | Mixed Coins         | 483.570      |                            |
| O 95                                    | 4                   | Scandinavian Kr.    | 9,329.688    |                            |
| O 95                                    | 4                   | Austrian Kr.        | 1,964.466    |                            |
| O 96                                    | 20 A                | Hungarian Kr.       | 1,859.238    |                            |
| O 96                                    | 20 A                | Austrian Schillings | 170.118      |                            |
| O 96                                    | 20 A                | Russian Roubles     | 248.796      |                            |
| O 96                                    | 20 A                | Mixed Coins         | 1,476.279    |                            |
| O 97                                    | 20 A                | Mixed Coins         | 1,624.339    |                            |
| O 99                                    | 20 C                | Mixed Coins         | 1,643.400    |                            |
| O 94                                    | 15                  | Dutch Ducats        | 110.341      |                            |
| O 106                                   | 21 K                | Gold Medallions     | 28.053       |                            |
| O 107                                   | 15                  | Mixed Coins         | 1,257.366    |                            |
| O 108                                   | 15                  | Mixed Coins         | 2,241.294    |                            |
| O 105                                   | Unknown             | Mixed Coins         | 13.995       | 22,450.943 191,966.738     |

GRAND TOTAL COIN  
 Coins found subsequently

3,760,732.854  
 1.235  
3,760,734.089

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SCHEDULE V

RARE COINS  
 8 Bags

| <u>Shipment #1</u><br>Museum Collection | <u>Our Bag</u><br><u>Number</u> | <u>Weight</u> | <u>Fineness</u>             |
|---|---------------------------------|---------------|-----------------------------|
| Rare Coins mixed                        | 3445                            | 105.31        | 900.0                       |
| Rare Coins mixed                        | 6                               | 116.45        | 900.0                       |
| Rare Coins Ducats                       | 7                               | 113.93        | 983                         |
| Rare Coins Shillings                    | 8                               | 86.01         | 900                         |
| Rare Coins Kronen                       | 9                               | 50.34         | ) Reviewed but not weighed. |
| Rare Coins R.M.                         | 50                              | 137.93        |                             |
| Rare Coins R.M.                         | 1                               | 286.91        |                             |
| Rare Coins R.M.                         | 2                               | 303.84        |                             |
| Rare Coins mixed                        | 3                               | 77.27         |                             |
| Rare Miscellaneous Medals               | 4                               | 429.61        |                             |
| Rare Coins Guilders                     | 5                               | 86.12         |                             |
| Rare Coins Kronen                       | 6                               | 11.43         |                             |
| Rare Coins Lei (Ru.)                    | 7                               | 9.17          |                             |
| Rare Coins Hungarian                    | 8                               | 77.85         |                             |
| Rare Coins Turkish                      | 9                               | 30.34         |                             |
| Rare Coins Spanish                      | 60                              | 142.23        |                             |
| Rare Coins Russian                      | 1                               | 45.29         |                             |
| Rare Russian Platinum Coins             | 1                               | 5.98          |                             |
| Rare Coins Gold mixed                   | 2                               | 57.43         |                             |
| Rare Coins Silver mixed                 | 2                               | 48.74         |                             |
| Rare Coins Gold mixed                   | 3                               | 7.20          |                             |
| Rare Coins Silver mixed                 | 3                               | 22.37         |                             |

No. of Bags

|                                 |    |                               |
|---------------------------------|----|-------------------------------|
| Bags Rare Coins Gold and Silver | 26 | ) These bags were not opened, |
| Bags Rare Coins Gold            | 9  | ) not weighed. Type of coin   |
| Bags Rare Coins Silver          | 6  | ) taken from tags.            |

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SCHEDULE VI

Silver in Shipment 1

| <u>Sheet No</u> |                            | <u>Fine Oz.</u> | <u>Lot Total</u> | <u>Total Silver</u> |
|-----------------|----------------------------|-----------------|------------------|---------------------|
|                 | <b>Silver in Gold bars</b> |                 |                  |                     |
| 69              |                            | 552.10          |                  |                     |
| 69 B            |                            | 809.98          |                  |                     |
| 70              |                            | 1,199.28        |                  |                     |
| 70 B            |                            | 1,558.90        |                  |                     |
| 71              |                            | 1,647.22        |                  |                     |
| 71 B            |                            | 189.37          | 5,950.85         |                     |
|                 | <b>Silver Bars A14D</b>    |                 |                  |                     |
| 226             |                            | 2,399.80        |                  |                     |
| 226             |                            | 2,475.50        |                  |                     |
| 226             |                            | 4,733.25        |                  |                     |
| 227             |                            | 4,390.26        |                  |                     |
| 227             |                            | 4,324.20        |                  |                     |
| 228             |                            | 4,686.18        |                  |                     |
| 228             |                            | 3,592.47        | 26,601.66        | 92,552.51           |

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SCHEDULE VII

Silver Coin in Shipment 1

| Sheet # | Bag #                               | Lot                      | Gross Weight | Fine-ness | Fine Oze. |
|---------|-------------------------------------|--------------------------|--------------|-----------|-----------|
| C84     | 3261-3264<br>3264A                  | A7b Maria Theresa Thaler | 4.584.13     | 833       | 3.818.58  |
| C87     | 3380, 3387<br>3392                  | Al4d Old Silver Coin     | 2.149.65     | 500       | 1.074.82  |
| C87     | 3391                                | Al4d " " "               | 265.40       | 640       | 169.85    |
| C87     | 3393                                | Al4d " " "               | 658.55       | 750       | 493.91    |
| C87     | 3395                                | Al4d " " "               | 132.00       | 800       | 105.60    |
| C87     | 3382, 3385<br>3386, 3396            | Al4d " " "               | 2.598.83     | 835       | 2.170.02  |
| C87     | 3381.<br>3383-84<br>3388-90<br>3394 | Al4d " " "               | 5.488.76     | 900       | 4.939.88  |
| C88     | 3414<br>3427                        | Assorted                 |              | 900       | 1.230.12  |
|         |                                     |                          | TOTAL        |           | 14,602.78 |

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**SCHEDULE VIII**  
**Platinum Metals**

| <u>Sheet No.</u> | <u>Fine Ounces, troy</u> |                  |                |                  |
|------------------|--------------------------|------------------|----------------|------------------|
|                  | <u>Platinum</u>          | <u>Iridium</u>   | <u>Rhodium</u> | <u>Palladium</u> |
| 225              | Shipment No. 1           |                  |                |                  |
|                  | 995.47                   |                  |                |                  |
| 229              | Shipment No. 5           |                  |                |                  |
|                  | 1,668.87                 | 8.45             | 2.25           | 9.55             |
| 230              | Shipment No. 22          |                  |                |                  |
| 231              | 19,367.10                |                  |                |                  |
| 232              | 8,560.97                 |                  |                | 220.87           |
|                  | 296.64                   | 466.61           | 381.21         |                  |
| 233              | Shipment No. 47          |                  |                |                  |
|                  | 4,412.19                 | 78.04            | 4.39           | 11.70            |
|                  | <u>TOTALS</u>            | <u>35,301.24</u> | <u>553.10</u>  | <u>387.85</u>    |
|                  |                          |                  |                | <u>242.12</u>    |

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SCHEDULE NO. IXMELTERS

| <u>Name</u>                                  | <u>Abbreviation Used</u>  | <u>Nationality</u> |
|--|---------------------------|--------------------|
| Royal Mint (London)                          | -                         | British            |
| Johnson Matthey and Co., Ltd.                | J. M. & Co.               | British            |
| N. M. Rothschild and Sons                    | N. M. R. & Sons           | British            |
| Jean Boudet                                  | -                         | French             |
| Rand Refinery Limited                        | Rand                      | South African      |
| United States Assay Office                   | U.S.A.                    | U.S.A.             |
| Royal Canadian Mint                          | -                         | Canadian           |
| N.V. Schone's Essayeursinrichting            | Schone                    | Dutch              |
| Deutsche Gold und Silber Scheide-<br>Anstalt | Degussa                   | German             |
| Prussian State Mint                          | -                         | German             |
| Royal Mint Perth                             | Perth Mint                | Australian         |
| Bor Kupferberjwerk und Hutten A.G.           | Bor                       | Yougoslavian       |
| Comptoir Lyon Alemand                        | Comptoir Lyon             | French             |
| Norddeutsche Affinerie                       | Norddeutsche              | German             |
| Kongl Myntet                                 | Swedish Mint              | Swedish            |
| Vienna State Mint                            | -                         | Austrian           |
| Lucien Weil                                  | -                         | French             |
| Compagnie des Metaux Precieux                | -                         | French             |
| Marret Bonnin, Lebel & Guieu                 | Marret Bonnin             | French             |
| Lab. Di Saggio R. Zecca                      | -                         | Italian            |
| Societe de Banque Suisse, Le Locle           | { Banque Suisse<br>S.B.S. | Swiss              |
| State Refinery, Moscow                       | Mockba                    | U.S.S.R.           |
| Caplain St. Andre                            | -                         | French             |
| Monnaie de Paris                             | -                         | French             |
| Royal Mint Melbourne                         | -                         | Australian         |
| Societe Metallurgique de Hoboken             | Hoboken                   | Belgian            |
| Mansfeldscher Kupper A.G.                    | -                         | German             |
| Hungarian Mint                               | -                         | Hungarian          |
| Les Fils de Paul Dubois                      | Paul Dubois               | French             |

227004

SCHEDULE K  
SUMMARY OF SILVER

FINE WEIGHT IN OUNCES

SHIPMENTS

|   | <u>NO. 1</u> | <u>NO. 11</u> | <u>NO. 17</u>                         | <u>NO. 21 K</u> | <u>NO. 26</u> | <u>NO. 34 D</u>        | <u>NO. 41 D</u> | <u>NO. 53</u>                                   | <u>NO. 56</u>  |
|---|--------------|---------------|---------------------------------------|-----------------|---------------|------------------------|-----------------|---|----------------|
| <u>Raid Shelter, Room 5</u><br>Bars   |              |               |                                       |                 |               |                        |                 | 1,237.8   |                |
| <u>Raid Shelter, Room 6</u><br>Silver shot in Red Cross boxes (40)<br>Silver shot boxes (74)<br>Bags  |              |               |                                       |                 |               | 305,630.8<br>231,420.8 |                 |   |                |
| <u>Raid Shelter, Room 7</u><br>2 Bars<br>10 Bars<br>Asc. Bars, Bags, Scrap, etc.<br>17 Bars<br>Asc. Bars, Bags, Shot, etc.<br>Bars              |              | 644,886.6     | 50,157.7<br>46,623.3<br>172,223.2     |                 | 22,799.3      |                        | 11,432.3        |   |                |
| <u>Raid Shelter, Room 9</u><br>107 bars (small)<br>140 bars (large)<br>29 bars (large)  |              |               | 2,074,411.7<br>322,070.6<br>327,979.0 |                 | 12,119.2      |                        |                 |   |                |
| <u>Mount Art Vault</u><br>55 Peseta<br>24 Freibergs - no fineness<br>57 Miscellaneous - no fineness<br>55 Regasse - fineness & weight estimated |              |               |                                       |                 |               |                        |                 | 269,623.7<br>670,428.9<br>22,651.1<br>651,725.0 | estimat-<br>ed |

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SCHEDULE NO. XI

VALUE OF GOLD AND SILVER

G O L D

|              |               |                                   |                          |
|--------------|---------------|-----------------------------------|--------------------------|
| <u>BAR:</u>  | 4,650,433.028 | Fine ounces @ \$35 per fine ounce | \$ 162,765,155.98        |
| <u>COIN:</u> | 3,760,734.089 | Fine ounces @ \$35 per fine ounce | <u>131,625,693.11</u>    |
|              |               |                                   | <u>\$ 294,390,849.09</u> |

S I L V E R

|              |             |                                  |                      |
|--------------|-------------|----------------------------------|----------------------|
| <u>BAR:</u>  | 5,870,398.5 | Fine ounces @ 45 cents per ounce | \$ 264,167.93        |
| <u>COIN:</u> | 14,002.78   | Fine ounces @ 45 cents per ounce | <u>6,301.25</u>      |
|              |             |                                  | <u>\$ 270,469.18</u> |

|        |                          |
|--------|--------------------------|
| GOLD   | \$ 294,390,849.09        |
| SILVER | <u>270,469.18</u>        |
| TOTAL  | <u>\$ 294,661,318.27</u> |

SCHEDULE NO. XII  
 RECAPITULATION OF SEIZURES  
 BY TYPE OF METAL.

| <u>SHIPMENT</u> | <u>BAR GOLD</u> | <u>GOLD COIN</u> | <u>BAR SILVER</u> | <u>SILVER COIN</u> | <u>PLATINUM</u> | <u>IRIDIUM</u> | <u>NIOBIUM</u> | <u>PALLADIUM</u> |
|-----------------|-----------------|------------------|-------------------|--------------------|-----------------|----------------|----------------|------------------|
| 1               | 3,267,928.488   | 3,568,766.116    | 32,552.5          | 14,002.78          | 995.47          |                |                |                  |
| 2 C             | 25,682.590      |                  |                   |                    |                 |                |                |                  |
| 4               |                 | 25,296.075       |                   |                    |                 |                |                |                  |
| 5               | 21.494          |                  |                   |                    | 1,668.87        | 8.45           | 2.25           | 9.55             |
| 7               | 32,482.095      |                  |                   |                    |                 |                |                |                  |
| 10              | 32,607.592      |                  |                   |                    |                 |                |                |                  |
| 11              |                 |                  | 644,006.6         |                    |                 |                |                |                  |
| 15              | 404.706         | 49,183.497       |                   |                    |                 |                |                |                  |
| 17              |                 |                  | 2,993,465.5       |                    |                 |                |                |                  |
| 20 A            | 679,488.609     | 31,802.502       |                   |                    |                 |                |                |                  |
| 20 C            | 6,357.320       | 1,643.400        |                   |                    |                 |                |                |                  |
| 21 X            | 146.859         | 28.059           | 22,799.3          |                    |                 |                |                |                  |
| 22              | 5,276.401       |                  |                   |                    | 28,224.71       | 466.61         | 381.21         | 220.87           |
| 26              |                 |                  | 12,119.2          |                    |                 |                |                |                  |
| 26 A            | 11,929.545      |                  |                   |                    |                 |                |                |                  |
| 26 C            | 290.090         |                  |                   |                    |                 |                |                |                  |
| 27 A            | 7,409.391       | 56,130.265       |                   |                    |                 |                |                |                  |
| 27 B            | 31,707.201      |                  |                   |                    |                 |                |                |                  |
| 27 C            | 24,191.270      | 25,150.842       |                   |                    |                 |                |                |                  |
| 27 D            | 290,584.409     |                  |                   |                    |                 |                |                |                  |
| 29              | 32,637.948      |                  |                   |                    |                 |                |                |                  |
| 31              | 392.667         |                  |                   |                    |                 |                |                |                  |
| 34 A            | 894.479         |                  |                   |                    |                 |                |                |                  |
| 34 B            |                 |                  | 537,051.6         |                    |                 |                |                |                  |
| 41 D            |                 |                  | 4,452.3           |                    |                 |                |                |                  |
| 47              |                 |                  |                   |                    | 4,412.19        | 78.04          | 4.39           | 11.70            |
| 52 A            |                 | 5,697.387        |                   |                    |                 |                |                |                  |
| 52 B            |                 | 23,020.722       |                   |                    |                 |                |                |                  |
| 53              |                 |                  | 1,237.8           |                    |                 |                |                |                  |
| 56              |                 |                  | 1,621,853.7       |                    |                 |                |                |                  |
| Unknown         |                 | 13.995           |                   |                    |                 |                |                |                  |
| Unknown         |                 | 1.235            |                   |                    |                 |                |                |                  |
| TOTALS          | 4,650,433.028   | 3,760,734.069    | 5,870,398.5       | 14,002.78          | 35,301.24       | 553.10         | 987.85         | 242.12           |

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EXHIBIT "A"

REGISTER OF SHIPMENTS RECEIVED AT REICHSBANK BUILDING

FRANKFURT A/M GERMANY

NOTE: Alphabetical subdivisions of shipments indicate that the circumstances surrounding the acquisition of the items or the movements of the items prior to acquisition were different.

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| UNITS OF SERVICE  |                   |  |  |                                     | SOURCE OF REQUEST (Check)            |  |
| INFORMATION SERVICE<br>(Number of replies)                                    |                   | RECORDS FURNISHED<br>(Number of items) | TEXTUAL, STILL PICTURES, ETC.<br>(Number of pages) | MOTION PICTURES<br>(Number of feet) | SOUND RECORDINGS<br>(Number of feet) | <input type="checkbox"/> NA Administrative Use |
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| WRITTEN   | ORAL              |  |  |                                     |                                      | <input type="checkbox"/> Other Government      |
|   |                   | 1                                      |  |                                     |                                      | <input type="checkbox"/> Nongovernment         |
| REQUEST HANDLED BY<br><i>[Signature]</i>                                      |                   |  |  |                                     |                                      |  |
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 August 21, 1940.

Mr. White

Mr. Eddy

Subject: Report on meeting on the future of gold, Federal Reserve Board, August 15, 4:30 p.m.

The meeting was apparently called by Professor Alvin Hansen in response to a memorandum by Walter Gardner. Present were Professor Hansen, Dr. Goldensinner, Dr. Eschiel, Dr. Gilbert, Mr. Gardner, Mr. Morse, and myself. I went at Professor Hansen's invitation, but left at 5:45 to catch a train.

I took no notes, and the discussion was rambling, so this report is partly a reconstruction of what others said, and an elaboration of my observations.

After some preliminary remarks by Professor Hansen, Gardner began by repeating the substance of his memorandum. He said the Treasury gold-buying policy in recent years, which he termed a substantial abandonment of the gold standard, was defensible as a depression subsidy to foreign countries to take our exports, and particularly a subsidy to our friends, the British Empire. Now, however, the export demand was concentrating in bottlenecks of products which are desired domestically, that is, on armaments, machine tools, etc., and further, we may soon be faced with a foreign trade world dominated by Germany. Hence, there were two reasons why we should stop subsidizing foreign buyers and revert to gold standard principles. These, he implied, were to stop the gold flow to this country by not buying gold in unlimited quantities, by lowering the price, by working directly on capital movements, by increasing imports, etc.

I objected that it was misleading to call his recommendations the principles of the true gold standard and Treasury policy an abandonment of it. The old gold standard believed in maintaining a fixed price for gold in unlimited quantities, in the free international movement of capital, and in allowing gold imports to get into bank reserves. His recommendations, on the other hand, of changing the price of gold intermittently, of buying gold only at intervals, of obstructing capital movements, etc., were anathema to gold standard principles. Furthermore, the matter of shipping arms to England should not be considered as a question of increasing an already sufficient demand for American goods but as a policy of national defense.

To SAC

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Division of Monetary  
 Research

Dr. Goldmann said that Gardner's account was unrealistic since it did not take into account the motives of those who determined the devaluation and the continued purchase of gold. Several speakers named a mixture of motives -- the desire to raise prices, particularly on the part of the farm bloc, the desire to prevent the dollar's appreciating, the State Department's unwillingness to set up barriers to capital movements, the hope to maintain a free international monetary and trade system, and so on.

Dr. Gilbert said that he had advocated the gold-buying policy as a means of relieving unemployment, but that now the defense program was going to do that much better, so that gold-buying could be dropped. I asked if the prospective 1941 deficit was such that he thought employment would not benefit from continuation of an export excess financed by gold.

There seemed some agreement that a German-dominated world would lead to a substantial change in the gold policy, though I pointed out the desirability of our alleged intention in buying gold and seeking to stimulate business and foreign trade would not be reduced by the change in nationality of the buyers. Our level of production and employment might still call for stimulation. If new intentions were adopted, such as to shun Germany rather than stimulate business, it should be done more directly than by stopping the buying of gold from Germany.

By the time I left there seemed little agreement on what should be done if Germany conquered England. Accepting gold only from countries which refused to take gold from Germany was suggested. Mention was also made of exchange control to balance international payments with little surplus. I am told that after I left it was agreed the United States ought to announce, upon the cessation of hostilities, that it would stop buying gold, and further that the United States should move toward organization of trade and exchange control. It was agreed too that if the control were operative, gold flow would look after itself, but that under present circumstances we may have to begin by stopping the gold imports and progressing toward exchange control.

There is to be another meeting in September.

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*Mtg in  
 Mr. Coe's office, B. E. H.*

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PROGRESS OF THE SUB-COMMITTEE ON  
ARGENTINA FUNDS

1942

The Sub-committee met at 4:30 May 12, with the following present: Messrs. Acheson, Duggan, Miller (State); White, Penle, Southard, DuBois (Treasury); Pierson (Commerce); James (C.O.I.); Jones (Property Custodian); Oppenheimer, Gaumnitz, Anderson, Coe (B.E.W.)

1. Discussion of the proposal to freeze Argentina funds made it clear that the State Department was strongly opposed. Treasury and Justice submitted memoranda, which have been circulated to the members.
  - A. In view of the divergent views held by members of the sub-committee, it seems desirable to have additional Board discussion before proceeding further.

2. The Facts. The situation, as outlined by Treasury, is as follows:

- A. Argentina is being used by the enemy to undermine our program of economic warfare. Large sums of Axis funds have been, and are being, transferred from the United States to Argentina, where they are being used on behalf of the Axis. Some Argentina holding companies operating in the United States are cloaks for the Axis. Substantial remittances are being made from Argentina to the Axis in Europe. Commercial and payments agreements with Axis Europe are still in force. Skins and hides are being shipped to Portugal. Arrangements are being made with a Spanish trade delegation, containing two Nazi agents, for regular shipments to Spain. Argentina is not cooperating in our Proclaimed List policy, and in some instances is subverting it. German firms have been converted into Argentine firms. Shipments are being made from Argentina to Proclaimed List nationals in other countries. The Argentine Government has purchased copper from Chile on behalf of a Proclaimed List firm in Argentina. Large quantities of currency and securities, looted by the Nazis in Europe, are being shipped into Argentina.
- B. The pro-Nazi attitude of the Argentine Government is hampering our war effort. Argentina has not severed relations with the Axis. It has been suppressing groups and newspapers sympathetic with the United Nations, and permitting free expression by pro-Nazi elements. It has permitted Buenos Aires to become the center of Axis espionage and propaganda. The Argentine President has placed well-known pro-Nazis on his advisory council.

(The above report is submitted by Frank Coe, Chairman of the Sub-Committee, to the Chairman of the Board for information. It has not been cleared with the Sub-Committee.)

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C. Argentina is not carrying out the Rio resolutions. Financial controls imposed apply to all United Nations belligerents, excepting those in the Western Hemisphere. There is no control of internal financial transactions. There are large loopholes in the foreign exchange control. State Department despatches say that little can be expected unless the government is changed, or unless the military position of the Axis deteriorates greatly.

3. Treasury Proposal. Argentine funds in the United States should be frozen. Argentina would be given a general license similar to those granted to the European neutrals, whereby all transactions would be permitted, for which the Government or the Central Bank would certify that there was no Axis interest. It would be said publicly that this measure was taken to prevent the Axis from misusing our financial markets via Argentina.

4. Position of State Department (as expressed at sub-committee meeting.) The State Department feels that freezing is too strong and too public. It fears that this step would disrupt the program which State has followed since the war began. It is afraid that it would strengthen the present government, and that it would cause other Latin American countries to rally around Argentina. Freezing by the United States would not curb the activities complained of. Argentina is not hostile to the United States - it is merely less cooperative than we want it to be. State prefers a policy of using numerous small pressures and to favor other Latin American republics above Argentina in exports of goods and arms, loans, etc. State hopes that these steps will eventually result in a change in the policies of Argentina. The State Department advocates study of the specific activities complained of and formulation of more specific measures to curb them.

The Treasury reply is that State's fears are exaggerated, and that similar fears concerning previous freezing orders have been proved unwarranted. It is not optimistic about the results of more study.

5. Recommendation. In the circumstances, it seems desirable to postpone a consideration of freezing until various alternatives are canvassed.

It is suggested that the Sub-Committee be instructed to consider what measures can curb the various types of activity outlined above. The Sub-Committee would pick working groups of three or four persons from the interested agencies, and report in perhaps ten days.

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June 24, 1942

Mr. White

E. H. Bernstein

Subject: Meeting at the U. S. Commercial Company, June 22, 1942

The meeting was held in the office of Mr. Lucas, Executive Vice President of the U. S. Commercial Company. It was attended by Mr. Merchant of the State Department, Mr. Jones of the Board of Economic Warfare, and Mr. Chappell of the U. S. Commercial Company.

The principal topic of conversation was the possibility of acquiring an adequate supply of escudos for the preclusive buying program. The State Department apparently has been somewhat fearful that the U. S. Commercial Company will incur liabilities for purchases and then find that escudos are not available to meet these liabilities. For this reason, the State Department would seem to prefer to have our purchases confined to the most strategic materials without committing ourselves too far on the less urgent goods.

Actually, it appears that more than half of the value of our purchases will be accounted for by wolfram, wool, and skins and hides. Under the circumstances, there seems little merit in confining the program of the U. S. Commercial Company to these commodities. If escudo exchange is not available, then our whole program of preclusive buying of these three principal commodities will be a failure anyway. There is small advantage in buying up the surplus supply of strategic commodities in Portugal if Germany is still to have access to its normal needs. Therefore, any useful program of preclusive buying must proceed on the assumption of the availability of an adequate supply of escudo exchange. For this reason the whole program of the U. S. Commercial Company should be carried out vigorously wherever goods can be prevented from going to Germany.

There was considerable discussion of whether the Portuguese intend to provide us with the exchange necessary for such large purchases as we are now making. Mr. Lucas quoted Mr. Clayton as saying that the Portuguese are getting such a high price from us for these commodities that they could hardly wish to impede the sale by refusing to acquire dollars. I expressed the view that the Portuguese have not refused in

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Division of Monetary  
 Research

the past to accept dollars and that it was unlikely that they would refuse to sell escudos for commercial purposes. Furthermore, since the Portuguese are aware of the large purchase program of the U. S. Commercial Company and have not raised any question of the means of payment, it would appear reasonable to conclude that they will accept dollars.

As discussion proceeded on the possibility of fully attaining the objectives of the U. S. Commercial Company, I ventured to observe that if difficulties were encountered in acquiring the escudos necessary to pay for the exclusive purchases of the U. S. Commercial Company, such difficulties would reflect the desire of Portugal to provide Germany with part of its output of strategic materials for political reasons. Difficulties in providing exchange would occur only if this political factor became important.

It was generally agreed that it would be wise to proceed on a bold program of purchasing widely on a scale sufficiently large to prevent Germany from getting its accustomed supplies from Portugal. I was asked whether the Treasury could assure the U. S. Commercial Company of an adequate supply of escudos if it should become necessary. I told them that the Treasury had no means of assuring them of a supply of escudos, but that it would consider sympathetically any method of payment that might become necessary to assure the acquisition of the materials they are purchasing. I suggested that they continue to purchase escudos in the normal manner, and avoid raising any doubts as to their own expectation that payment would always be acceptable in dollars.

When I was asked what forms of payment the Treasury might consider favorably if it should become necessary, I suggested that probably payment in dollars to the Portuguese account in the Bank of Brazil would be approved by the Treasury if no alternative method of payment more satisfactory could be found. As the Bank of Brazil consults us on dollar transfers, I believe that our foreign funds policy would be fully safeguarded through such payment. The Bank of Brazil may also have escudos or may be able to acquire escudos which this country can use for our commercial purposes in Portugal.

On the basis of the discussion, Mr. Lucas agreed that they would continue to acquire escudos for their purchases in the usual way. The magnitude of the purchases, however, would be increased. It is proposed to ask the Bank of Portugal at what rate they would provide escudos to the extent of \$5 million in the next two months.

EMD/jm  
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Copies to Mr. Glasser  
 Mr. Southard

Copy to Mr. Pehle

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To Mr. B. Bernstein

From L. W. Knoke

August 11, 1942

I enclose copy of a memorandum jointly prepared by Mr. Dreibelbis and ourselves, of the meeting held in Mr. Bell's office on July 23. This is the memorandum to which I made reference in our telephone conversation today. We are placing this memorandum in our files, and I understand that Mr. Dreibelbis will put a copy in the files of the Board.

Enc.

(Initialed) LWK

LWK:BOC

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MEMORANDUM OF MEETING HELD IN  
MR. BELL'S OFFICE AT THE TREASURY  
DEPARTMENT, WASHINGTON, D. C.,  
AT 2:30 P.M. ON JULY 23, 1942.

On June 17, 1942, the New York Bank addressed the attached letter to the Board suggesting the desirability of an informal meeting between representatives of the Treasury Department, the Board of Governors and the Federal Reserve Bank of New York. The letter was the result of surveys which the Federal Reserve Bank of New York had made on its own account and the fact that the question had been raised at Presidents' Conferences by one or more of the presidents.

The meeting was attended by the following:

Mr. D. W. Bell, Mr. Bernard Bernstein, Dr. Harry D. White, and Mr. W. T. Heffelfinger of the Treasury Department.

Mr. M. S. Szymczak, Mr. J. P. Dreibelbis, and Mr. E. L. Smead of the Board of Governors of the Federal Reserve System.

Mr. Andrews of the Post Office Department.

Mr. L. W. Knoke and Mr. Walter S. Logan of the Federal Reserve Bank of New York.

Mr. Szymczak referred to the letter and said that following its receipt Mr. Dreibelbis had informally furnished Mr. Bernstein with a copy and he, Mr. Szymczak, had arranged the meeting with Mr. Bell.

Mr. Bell said he had invited Mr. Andrews to attend the meeting because the Post Office Department was considering the issuance of emergency instructions with reference to property in its possession including War Savings bonds and stamps.

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Mr. Szymczak said that Mr. Logan would review the facts, in order to indicate the extent to which the Federal Reserve Bank of New York had studied the subject and to explain the considerations which had led it to suggest the meeting.

Mr. Logan stated substantially as follows:

The Federal Reserve Bank of New York holds gold in the amount of approximately \$2,500,000,000 in custody for foreign account, owned by foreign governments and foreign central banks. A year ago this figure was in the neighborhood of \$2,000,000,000. All of this gold is held in the vaults of the Federal Reserve Bank of New York except about \$3,000,000, which is held by the Federal Reserve Bank of San Francisco as agent of the Federal Reserve Bank of New York.

So far as the Federal Reserve Bank of New York is concerned, we consider that there is no occasion for it to move the gold which it holds in custody for foreign account and no occasion for it to recommend any Government action to move it; the vaults of the Federal Reserve Bank of New York are adequate, both as to space and protection; the owners of the gold know where it is and presumably if they were not satisfied to have it where it is they would give instructions to have it moved; from the standpoint of possible conversion into dollars, it is more conveniently located where it is than it would be if moved to interior points. A number of accounts are fairly active from the standpoint of selling gold to the Treasury. (At this point there was some discussion about the existing facilities in the interior for the sale of gold to the Treasury Department, and of the existing rules of the Treasury Department; and the Treasury representatives indicated that these rules could be changed if necessary, and that this question of convertibility would be secondary if it should be decided that there are important reasons for moving the gold.)

Notwithstanding, however, that the position of the Federal Reserve Bank of New York vis-a-vis its principals does not call for anything to be done, it

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is recognized that the United States Government, under its existing powers, may move the gold, or order its removal, if it is decided that there is a policy which makes this desirable in the public interest; in this connection we have in mind particularly Section 5(b) of the Trading with the Enemy Act, as amended.

So, in all the circumstances (including the Federal Reserve Bank of New York's close relationship to the Treasury in connection with problems affecting foreign property subject to Executive Order No. 8389, and in connection with gold transactions requiring licenses under the Gold Reserve Act of 1934) it has seemed appropriate for the Federal Reserve Bank of New York to consider this subject and study certain aspects of it. Accordingly, the officers of the Federal Reserve Bank of New York have done so from time to time starting over a year ago. In June of 1941, as a result of inquiries addressed to these banks, we ascertained that the Federal Reserve Banks of Cleveland, Chicago, Minneapolis, St. Louis, and Kansas City have available vault space which could be used for the custody of gold in an aggregate amount of approximately \$5,000,000,000. We have also attempted to estimate the probable cost of moving the gold to these banks, and as a result we estimate that it would cost, on the average, about \$250 per million if arrangements could be made with the Post Office similar to those made when the Treasury Department moved \$9,000,000,000 of gold from New York to Fort Knox, Tennessee.

Our purpose, therefore, in suggesting this informal meeting is to let the Treasury know we have been considering this subject, and to give the Treasury an opportunity to discuss it, or any aspect of it, if it so desires.

In any such discussion of the matter, we would like to raise certain questions and call attention to certain aspects of the matter, although we assume of course that no decisions would be made. One of these questions would be as to the cost of transportation, whether such cost would be assumed by the Government or whether the bank would be expected to collect the cost from the owners of the gold.

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Dr. White said that the matter of earmarked gold held by the Federal Reserve Bank of New York was only a part of the broader subject of whether or not and how plans should be made, to be put into operation in the event of possible invasion or threatened invasion, including plans with respect to the removal or destruction of currency, securities, and other valuables, the transfer of banking and industry to some other area, and other matters.

The discussion which followed was of a very general character and included references to various aspects of the broad subject referred to by Dr. White.

Mr. Logan said that the Federal Reserve Bank of New York had not considered the matter of earmarked gold held by it as a part of the broader subject referred to by Dr. White, and that the question which the officers of the Federal Reserve Bank of New York had had in mind to suggest for the consideration of the Treasury was not so much the question of what action would be taken in the event of actual or threatened invasion, but rather whether or not any action might be desirable on grounds of national policy in advance of a threatened emergency.

There was general agreement to the effect that the main purpose of removing gold from New York would not be to protect it from damage or destruction by bombing, but to prevent it from falling into the hands of the enemy in the event of invasion. In this connection reference was made to the experience of banks in the London bombings, which it was understood had not resulted in serious damage to property in adequate bank vaults.

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These divergent views were suggested: On the one hand, that it would be undesirable to have any considerable discussion of the problem of possible action in the event of invasion, even among Government departments and agencies, for fear that some references might be made to the matter in the press, which would be alarming to the public and would have a bad effect on public morale; and, on the other hand, that it might be a wise precaution to make plans for an emergency regardless of the chances of its happening, and that public morale would not be adversely affected by it becoming known that such plans were being made, any more than by it being known that the military authorities have made plans as to strictly military measures to be taken in the event of a possible attack on New York or other places. In this connection reference was made to what had been done in Hawaii with reference to currency and securities, and the view was expressed that the public reaction to this had not been unfavorable. It was suggested, however, that this was not a close analogy; that such action in Hawaii, following closely after the naval engagement at Midway, had been so timed as to minimize the possibility of causing alarm; and that the possibility of an attack on or an attempted invasion of Hawaii must necessarily be recognized as less remote than on New York.

It was suggested that governmental action of the kind under discussion would be less alarming if it was disassociated from the Federal Reserve System's function of supervising banks. In this connection the Board of Economic Warfare was mentioned.

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With reference to the cost of transportation, the Treasury Department representatives indicated that if it became necessary to take action the question of how the cost would be paid would be secondary.

The possible basis of governmental action was discussed and it was suggested that it should not be predicated entirely on Section 5(b) of the Trading with the Enemy Act but should also be action by the military commander of the area.

Reference was made to the fact that most of the gold held by the Federal Reserve Bank of New York for foreign account is "blocked"; Mr. Knoke and Mr. Logan stated that over \$2,000,000,000 of the approximately \$2,500,000,000 of such gold is subject to the licensing requirements of Executive Order No. 8389 and that all of it is subject to the licensing requirements of the regulations issued by the Secretary of the Treasury under the Gold Reserve Act of 1934. Reference was also made to the fact that the gold held in the name of Banque de France and Banque Nationale de Roumanie is subject to attachments in certain lawsuits which have been brought against these banks.

The possibility of discussing the removal of gold with representatives of the owners was discussed, and it was pointed out that this would be easy to do in some cases, particularly where there are now in this country representatives whose authority to control the disposition of the gold has been certified by the Secretary of State, but that in other cases it would be difficult or impossible.

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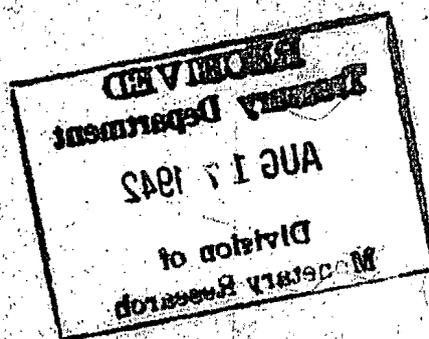
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In response to an inquiry by Mr. Bernstein as to what the bank and the System wished done about the gold Mr. Szymczak replied that we felt that we should discuss the matter informally with the Treasury Department as was being done so that consideration might be given to the question of whether, from the standpoint of national policy, the gold should be moved, and, if so, under whose direction and under what legal procedure.

There was general agreement that the decision with regard to whether or not, and at what time and how, plans of the character in question might be made was primarily for the military authorities to determine. It was understood that Mr. Bell would discuss the matter with the Secretary of the Treasury, and that, if the Secretary thought it advisable, the Treasury Department would communicate with the appropriate military authorities. It was suggested that this might lead to the formation of a committee composed of representatives of Government departments and agencies to prepare such plans.

Copies to: Messrs. D. W. Bell and White



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*Conf. General*

October 2, 1942

*10/7*  
*UK*

CONFERENCE WITH THE PRESS

Meeting in Assistant Secretary Long's Office,  
Department of State,  
October 2, 1942  
2:30 p.m.

Present: Messrs. B. Bernstein, Peale and Glasser  
of the Treasury;  
Assistant Secretaries Long and Acheson and  
two others of the State Department.

Mr. Long began by detailing the facts of British shipments of relief food parcels from Portugal to Occupied Europe. These shipments of food, purchased in Portugal, began early in this year and only partially with the knowledge of this Government, and gradually expanded until now they have six distributing centers in Occupied Europe, to each of which they send four tons of food valued at \$3,000 per month. The British also have carried out some bulk shipments in addition to the parcels.

Mr. Long said that the State Department had seriously discussed this question for the past week or ten days in conferences, in which Mr. Hull and Mr. Peale participated. It has been decided by the State Department that, solely for political reasons, it was desirable to consult with the British and to reach an agreement with them as to the shipment of food into Occupied Europe, in which the United States would participate on the same basis with the British, and that it would be a joint policy. In discussions with the British it is expected that the United States will be able to curtail the British, particularly with respect to bulk shipments, and to limit the extent of shipments.

The reason for this course of action was the desire of the United States to preserve its position in the post-war negotiations as an equal with the British, that if the British carried out this program alone they would have a favored position with respect to the governments of the now occupied countries and this, of course, would be insufferable. (Mr. Long gave the analogy of the post-war period of the last war in which President Wilson, between 1918 and 1920, lost his popularity in the United States because in the peace negotiations it was necessary to limit the demands of the very small countries of Europe, thereby incurring the antagonism of the American dependents of such countries. The analogy implied that a domestic political reason was also involved in the discussion.) It was also pointed out by Mr. Long that England is subject to pressure in London from the refugee governments, and these governments have been pressing for at least token shipments of relief parcels in order to indicate to their peoples that we are thinking of them and giving them a taste

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Research

of the larger amounts that will come when they are free from German enslavement. The United States is not subject to such pressure, and we can help the British to resist further demands.

In a discussion which followed, it was asked directly whether this decision of the State Department meant a reversal of policy with respect to relief parcel shipments to occupied countries. Mr. Long definitely affirmed that the State Department supported the present policy and that this would not be a reversal.

The Treasury representatives pointed out: that by going along with the British we were really weakening the British in their negotiations with the refugee governments to cut down the amount of relief shipments; that our license policy in more important and related cases would need to be reconsidered and the decisions possibly reversed; that our position relative to United Kingdom, vis-a-vis the countries of Europe, will be determined by factors much more important and decisive than taken relief shipments; that permitting token shipments would open the door to pressure from the relief organizations in the United States which might well result in expansion of the relief shipments and thus constitute a serious breach in the blockade; that there is no agitation at the present time in this country to justify a change in policy.

Mr. Long said that in State Department discussions all the objections mentioned had been thoroughly canvassed and that the decision was made solely on political grounds.

Mr. Long said that he would like to get the Treasury's approval as soon as possible for there were several urgent cases pending in which relief organizations are requesting permission to purchase food in Portugal for shipment to occupied Europe, and he had told the British that immediate discussion was desirable. Mr. Bernstein replied that he would take up the matter with the Secretary and report on Monday at the latest.

HG:rel - 10/5/42

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Secretary Morgenthau

H. D. White and Randolph Paul

At a recent conference at the State Department, representatives of Treasury were advised by Breckinridge Long as follows:

The British Government has for some time been allowing the shipment of food parcels from Portugal into occupied Europe. Such shipments are currently being made to Belgium, the Netherlands, occupied France, Luxemburg, and Poland. The parcels are sent by the refugee government concerned or relief organizations operating under the auspices of such governments. The total cost per month of shipments made from Portugal amounts to about \$75,000 and includes about four tons of food per month to each of the areas enumerated. The shipments are limited to supplies available in Portugal and consist primarily of fish.

State has recently learned that the British are also allowing the Belgian Government to purchase up to approximately £ 250,000 sterling per month of bulk food in Portugal for shipment to Belgium.

The State Department has decided solely on political grounds that the American policy should parallel the British policy with respect to food parcels. We would at the same time explore the bulk shipment problem with the British. The reason which was given to the Treasury representatives for the decision to follow the British policy on food parcels is that it is important that the United States have an equal position with the British in the post-war discussions with the now occupied countries of Europe. If the British relief policy is more liberal than ours, it might give them a preferred position with such countries.

We have been asked to approve the State Department decision on this matter.

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**Recommendation:**

In view of the small amount of shipments involved, it is recommended that the Treasury raise no objections to the decision of the State Department, but the movement of food into Occupied Europe will be carefully watched.

HC:rl/dal 10/7/42

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*Confidential*  
*Max East*

Dec. 7, 1942

Mr. White

Mr. Gunter

Subject: Meeting on purchase of hoarded wheat in Iran with gold, December 3, 1942.

Present: State Department: Messrs. Livesey, Luthringer, Merchant, Jarnegan, Nielsen, Jones

B.E.W.: Messrs. Boardman, Reese, Harris

Lend-Lease: Ecker, Lee, Walker, Cardoso

U.S. Commercial Company: Messrs. Ducas, Warner

Treasury: Mr. Gunter

Background: There is a scarcity of goods, particularly wheat, in Iran, and available shipping limits the amount of goods that can be sent there. However, there are believed to be 100,000 tons of wheat in hoards in Iran, which are held primarily by speculators. The representatives of Lend-Lease in Iran are of the opinion that this hoarded wheat can be smoked out with gold coins. Gold and wheat are held in higher esteem by the natives of Iran than any other commodities, and gold is the only commodity with such chance of drawing out the hoarded wheat. The Iranian Government is apparently too weak to use compulsion (in addition to the fact that some of the wheat speculators are in the government), and offers of increasingly higher prices by the Iranian Government have so far failed to draw out the wheat.

The representatives of Lend-Lease in Iran believe that 3 tons of gold (slightly more than \$3 million in gold) will do the job.

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The Iranian Government has not been informed of the proposal.

Conclusions of the Meeting: The general conclusion of the meeting was that there is some possibility that the plan would be successful, and, in spite of several drawbacks, it probably should be attempted. A cable to Dreyfus, our Minister at Teheran, was drafted which tentatively agreed to the plan but asked for additional information and the opinion of the British.

1. The drawbacks of the plan were felt to be as follows:

- a. Possible repercussions of the plan on United Nations' purchases in other parts of the Middle East,
- b. Possible adverse effects on Iranian paper currency,
- c. Possible insistence of the speculators on gold in the future.

2. These drawbacks were felt to be of not too great significance if the plan is carried out with the clear understanding that gold is being offered only this once and in limited quantities and if adequate quantities of wheat can be made available from the outside in the near future. In this connection, it should be pointed out that Iran is normally an exporter of wheat, but the last few crops have been poor. The next crop is due in August, 1943.

3. There is also the question of who should make the purchases. At present, the Iranian Government is practically the sole buyer and distributor of wheat. The representatives of the State Department felt that this arrangement should be continued, and that the gold coins would be made available to the Iranian Government in exchange for rials. The exchange of gold for rials would be considered a special financial transaction and not part of any agreement now in existence or to be established. The principal objection to this arrangement is the fact that some of the speculators are members of the Iranian Government.

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4. In accordance with Mr. Bernstein's instructions, I pointed out that the Treasury was willing to cooperate in the plan and would undertake to obtain the coin. The drafted cable included a question on the types of coin preferred in Iran.

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*Conf General*  
*WB*

Memorandum of Conversation  
with Sir Frederick Phillips and Mr. Fleyfair  
at office of British Supply Council  
March 12, 1943

Sir Frederick wrote to Mr. Bell that he had wanted to talk to you about some problems but knew you were out of town and as the matter was urgent he asked Mr. Bell to have someone call him. At Mr. Bell's request I called Sir Frederick who asked us to come to his office.

Phillips and Fleyfair were present. Phillips asked a number of questions on the Iranian Stabilization Agreement, particularly regarding the consultation on a change in exchange rates. I told him the consultation provision was standard in our stabilization arrangements. He referred to the exchange of messages between the Secretary of the Treasury and the Chancellor of the Exchequer and said that he assumed that in harmony with these messages the Treasury would not agree to any change in exchange rates without consulting the British. I told Sir Frederick I was not in a position to interpret the applicability of the messages to any particular case, but that we entered into stabilization agreements with the purpose of stabilizing exchange rates rather than destabilizing them.

Sir Frederick then raised the question whether we had been planning to send any gold to Iran. He had heard from London that a proposal was under consideration to send 100,000 pounds in sovereigns from Britain to Iran to be sold at the going rate for gold, practically two and one half times the value of the gold at \$39 an ounce and the official exchange rate. I asked whether the gold would be sold for rials on British account or Iranian account. He asked whether we contemplated doing the same. I told him so far as I knew we had not reached the stage of considering the sending of the gold, though of course we knew the proposal was made to send gold as an anti-inflation device.

Fleyfair spoke briefly on the doubtful usefulness of such a small quantity of gold for anti-inflation purposes, and I made some remarks about the possibility of using gold only to purchase large hoards of goods rather than making gold the expected means of payment for small hoards or for ordinary transactions.

\* Apparently the gold will be sold for British account.

E. H. Bernstein

E-H/gro  
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*Confidential*  
*Misc.*

## MEMORANDUM FOR THE FILES

March 24, 1943

At the meeting of the Sub-Committee on Foreign Funds Control held at Brown Brothers Harriman on February 10, Mr. Wilbert Ward raised with me privately during luncheon the question of Treasury taking a reverse census.

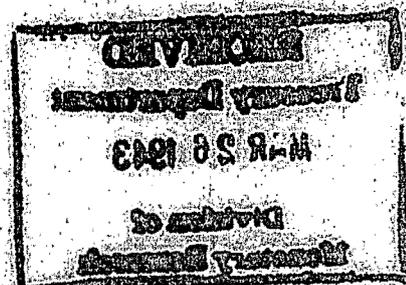
Mr. Ward stated that they had seen several months ago the public announcement that the Treasury proposed to take such a census and he wondered what the status of the census was at present. He said that the City Bank had not yet filed its claim for war losses with the State Department, indicating that there were some problems in respect to such filing which had not yet been resolved, and he expressed as his opinion the view that not only the banks but many other organizations and institutions would welcome an opportunity to file with one department of the Government, on a simple form, details of such losses. He further indicated that in view of the experience which the Treasury had had with TFR-300 it seemed that the Treasury was the logical department to conduct a reverse census.

Mr. Ward then referred to one of the bondholders protective committees of which he is a member and inquired if in my opinion the Treasury would object if the committee should formally request that the Treasury take such a census. He indicated that, while he could not speak for the committee, he was prepared, under certain circumstances, to suggest to the committee that it formally present its views to the Treasury along the lines indicated. He stated that he felt it would be far more preferable that such information be collected by one agency on an overall basis rather than by several agencies--each to a partial extent only--and he reiterated that he thought the Treasury was the logical department to take such a census.

It was indicated to Mr. Ward that the census continued under consideration by the Treasury, that new factors had been injected into the situation, such as the manpower problem and the congressional attitude toward questionnaires in general; that in my personal opinion the Treasury would not object to being approached by the bondholders protective committee along the line he suggested but that this was my personal opinion only and that it could not be represented to such committee that Ward's proposal, if made to the committee, was made with the encouragement or at the suggestion of the Treasury.

Noted

(initialed) JWP



cc: Messrs. White, E. M. Bernstein, Luxford, Reeves, Stewart, Fox.

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May 6, 1943

Mr. White

Mr. Gunter

**Subject:** Meeting in State Department on Swiss francs for preemptive buying program, May 4, 1943.**Presents:**

|               |   |
|---------------|---|
| For State:    | Members of FFC Division of State Department |
| For HEW:      | Mr. Reifler                                 |
| For Treasury: | Mr. Fehle<br>Mr. Luxford<br>Mr. Gunter      |

Mr. Reifler is urging a preemptive buying program for Switzerland and this meeting was called to consider the financial aspects of the program. Mr. Reifler appeared to be considerably confused as to the form of the program and was hazy as to what he expected the treasury to do.

The situation in Switzerland seems to be briefly this: Germany has placed a considerable volume of orders in Switzerland for fine precision tools, fuses, and other war materials requiring skilled workmanship. The companies, in particular watch companies, that will take these orders are heavily loaded with them. Some companies will not take them, and others are on the borderline. We are using various types of pressure (in particular, the threat of blacklisting) to prevent the placing and execution of the orders.

Germany allows Switzerland to engage in a certain volume of foreign trade and has established quotas for a list of non-war goods.

After considerable discussion it developed that Mr. Reifler had in mind a three-point program:

1. Low priority preemptive program: This program would involve having allied and friendly countries use their quotas completely, even though they do not need some of the goods. Apparently the Swiss National Bank will supply Swiss francs against local currencies (but not against dollars) for such trade. Mr. Fehle pointed out that we objected to the Swiss acquiring balances in other countries and not under our control. The HEW is to discuss the financial aspects of this program with Mr. Fehle and Mr. Kiss.

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2. The quotas for the United States would also be fully used, but particular attention will be given to goods needed by the United States. This presents no exchange problem since the Swiss National Bank will accept dollars for exports directly to the United States.
3. The third phase of the program is the most important, involving high priority preemptive buying. The American representatives in Switzerland would be allowed to promise orders to replace German orders, regardless of whether the goods could be exported. A procedure would be worked out to have the orders placed. Payment in blocked dollars would be offered, and the Treasury would only step into the picture whenever payment could not be made in this way and Swiss francs were needed. The Treasury agreed to this phase of the program with the understanding that each case would be handled individually. We requested Mr. Riefler to furnish us information on the size of this phase of the program, but his subsequent remarks made it doubtful that he is or will be able to do so.

JWC:lr 5-6-43

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July 19, 1943

Mr. White

Mr. Glavin

Subject: Conference held in Mr. Lucas' Office, July 15, 1943  
to consider the shipment of gold to Spain.

Present: Messrs. Lunn and Merchant for State.

Messrs. Bernstein, Bennett and Glavin  
for Treasury.

Messrs. Lucas and Foy for U.S.C.I.

Messrs. Harper, Rame and Neerlein for U. S. N.

Messrs. Theron, Burns and Wynia-White for U.S.C.I.

Mr. Lucas summarized the situation as follows: The peseta fund now on hand for the purchase of wolfram and other strategic materials in Spain will be exhausted in approximately a month. In view of this situation, the Anglo-American Committee, on July 14, concluded that no other solution than the shipment of gold to the Bank of Spain would solve the problem.

Treasury attitude toward the shipment of gold: In reply to a question asking whether the Treasury would be willing to ship gold, Mr. Bernstein replied that while the Treasury had in the past not sent gold to the Continent for economic warfare reasons, it would be willing to reconsider its position if the assembled group thought it necessary.

In regard to the actual shipping of gold in the event this policy were adopted, Mr. Bernstein commented further that he thought the cost of shipping should be borne by Spain in any case and that preferably the gold should be sold outright in New York.

As a possible alternative method of obtaining pesetas, Mr. Bernstein suggested that the Bank of Spain might be approached via the Federal Reserve Bank of New York. He further suggested that the Bank of Spain might regard this request as an opportunity to open an account with the Federal in New York. The conference agreed to the sending of an inquiry for 50 million pesetas by the Federal.

Effect of gold purchases in Spain on the attitude of other Continental countries: The question was discussed at some length whether the sale of gold to Spain might not increase pressure generally for payment in gold. The consensus of opinion was that it likely would.

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Escudo needs: The situation in regard to Portuguese currency needs was summarized and discussed. It was suggested as a temporary measure that some of the gold now at Gibraltar might be made available for sale for escudos.

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COMMODITY GROUPS ANALYSIS, JANUARY 1943

Joint Accounts:

Commodity

Woolen  
Woolen Rags

July  
110,000,000  
61,000,000  
171,000,000

August  
110,000,000  
61,000,000  
171,000,000

September  
110,000,000  
110,000,000

October  
110,000,000  
110,000,000

Joint Fund:

As of June 30

Cash 88,129,000  
Goods 121,871,000  
210,000,000

Estimated as of July 15

159,399,000  
60,601,000  
220,000,000

Wool Expended 16,000,000  
Middle of July 16,000,000  
32,000,000

16,000,000  
16,000,000

Spanish Releases:

Official 4,500,000  
Private 10,700,000  
Sold Authorized 10,700,000

It is to be realized, from the above, that including woolen rags the fund will be sufficient only provided that the Spanish grant licenses seen 45 days and that taking into consideration only the woolen purchases every two and a half months. It should be noted that we have received an export license on woolen from April 30 to date and no export licenses for any other commodity since May 4 despite assurances from the Spanish that, under the supply purchase program, export licenses would be granted as promptly as possible.

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SEPARATED ITEMS MUST BE INDEXED

|                          | July        | August     | September  | October    |
|--------------------------|-------------|------------|------------|------------|
| <b>General Accounts:</b> |             |            |            |            |
| General                  |             |            |            |            |
| Colfrans                 |             |            |            |            |
| Special Traffic          | 16,500,000  | 15,000,000 | 15,000,000 | 15,000,000 |
| Special Transportation   |             | 50,000,000 |            |            |
| Other                    |             |            |            |            |
| Absorption & Separate    |             |            |            |            |
| WVING                    | 15,500,000  | 15,000,000 | 15,000,000 | 15,000,000 |
|                          |             | 50,000,000 | 50,000,000 | 50,000,000 |
| <b>USCO Assets:</b>      |             |            |            |            |
| Balances                 | 21,832,603  |            |            |            |
| Unkel paid               |             |            |            |            |
| Receipts                 | 25,000,000  |            |            |            |
| CINM etc                 | 5,985,000   |            |            |            |
| USCO                     | 52,717,603  |            |            |            |
| <b>For Budget:</b>       |             |            |            |            |
| Official                 | 10,341,000  |            |            |            |
| Private                  | 20,070,000  |            |            |            |
| Balances                 |             |            |            |            |
|                          | 175,700,000 |            |            |            |

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July 22, 1943

Meeting in Mr. Lucas' office, July 22, 1943, to  
Consider the Use of Gold to Purchase Pesetas

Present: Messrs. Dunn and Labouisse for State  
Messrs. Lucas and Pury for E.O.C.C.  
Messrs. Harold and Lyden-White for  
British Embassy  
Mr. Drexler for Office of Economic Warfare  
Mr. Burns for United Kingdom Commercial  
Corporation  
Messrs. Bernstein, Bennett, and Glendinning  
for Treasury

Mr. Lucas began the meeting by reading a cable from the Ministry  
of Economic Warfare to Lord Halifax (copy attached), the contents of  
which may be summarized as follows:

1. Our scale of expenditure for wolfram purchases is such that we shall not be able to meet it much longer by present methods. While we are reexamining the question of wolfram purchases, we expect our conclusions to be that virtually unlimited pre-emption is justified.
2. There appear to be two alternatives open to us: (1) to put pressure on Spain to continue sales of wolfram to the Allies by threatening to cut off supplies, etc.; (2) to explain to Spain that we intend to continue wolfram purchases but that we cannot supply goods on a quid pro quo basis and to endeavor to reach a friendly agreement. Of the two, the latter approach is preferable; and this means that Spain must be induced to accept larger sterling and dollar balances.
3. It is the British view that the only way to induce Spain to do this is to offer gold for their balances above agreed limits. "We should accordingly make them a definite offer to that effect..." though

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limiting it to a six months basis. The machinery of U.S. would be to pay sterling into the clearing and Spain would be entitled to apply it to the purchase of gold. We would first offer them gold in London for export after the war, but we should be prepared to allow export now, if necessary, given a pledge that no gold would be sent from Spain to the Axis.

4. If this action is agreed to by the United States we would suggest that the two missions be authorized to open discussions with the Spanish Government on the foregoing lines.
5. Discussion with the United States and a report on the subject is requested.

Mr. Lucas asked Mr. Bernstein if any word had been received from the inquiry sent to the Bank of Spain by the Federal Reserve Bank, suggesting that the Bank of Spain might open an account with Federal to the extent of 50,000,000 pesetas. Mr. Bernstein replied that the matter would take about a week and that no reply had as yet been received. In commenting on Mr. Bernstein's remark, Mr. Lucas stated that there was still time to explore the above possibility of getting pesetas in lieu of using gold as we had resources to meet our peseta needs for about the next two months. He added, however, that he thought it was now time to explore what arrangements should be made in case gold were to be used.

Mr. Lucas then asked Mr. Bernstein if the approach suggested in the W.D.T. cable would be satisfactory to the Treasury. Mr. Bernstein replied that the Treasury always stood ready to earmark gold in exchange for dollars and to license the export of earmarked gold after the war. The only major question for us raised by the cable, he added, was the shipment of gold during the war when Spain's dollar balances reached a given figure.

Mr. Lucas next referred to the question of who should bear the cost of exporting the gold to Spain, which was raised by Mr. Bernstein in the conference of July 15. Mr. Bernstein commented that the U.S.C.C. should first offer gold in New York and the British in London; then if the question of delivery in Spain were raised, the Treasury would be prepared to step in and advise on the matter.

The question of the coordination of any British and American plans for providing gold to Spain was considered and it was agreed that the two Treasuries should confer on: (1) the points beyond which sterling

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and dollar balances held by Spain would be convertible into gold; (2) the points beyond which both U.K. and U.S. would make any gold earmarked for Spain in London and New York available for export to Spain during the war.

Mr. Bernstein stated that he would contact Sir David Waley to begin the explorations decided upon above.

It was agreed to send a cable notifying the representatives in Madrid of relevant developments here and to provide London with information in answer to the above outlined cable.

G. S. Glendinning

cmg/jm  
7/27/63

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September 28, 1943

Meeting in Mr. White's Office  
September 28, 1943  
3:30 P.M.

Present: Lord Keynes, Sir David Waley, Messrs. Robertson, Opie, Meads, Haster, and Thompson-McCausland of the British Treasury  
Messrs. Livesey, Pasvolaky and Brown of the State Department  
Dr. Goldmeyer, Mr. Gardner and Miss Bourneuf of the Board of Governors  
Mr. Coe of the Office of Economic Warfare  
Mr. Cohen of the White House  
Messrs. White, Bernstein, Casaday and Luxford and Miss Richardson of the Treasury Department

The agenda was distributed before the meeting opened. The topics listed were discussed in order. The main points of the discussions were as follows:

1. Lord Keynes suggested a borrowing quota equal to the contribution quota of \$8 billion plus 50 percent. Mr. White stated that it was necessary to have a relationship between the borrowing quotas and the resources of the Fund so that the Fund could meet the borrowing quotas even if some currencies became scarce. Lord Keynes said that this assumed that the United States was the only creditor country in the postwar world. He added that half a dozen small countries could reach the limit of the borrowing quota before any pressure would be put on the scarce currencies. Mr. White answered that our public will consider the allowing of borrowing quotas larger than contribution quotas to mean that we have undertaken a moral commitment to supply the needed resources. Since larger borrowing quotas do not actually give any more flexibility than is already provided, little is gained thereby.

Mr. Robertson asked if we were still considering aggregate quotas of \$5 billion. Mr. White explained that we are now considering aggregate quotas of at least \$8 billion and of \$10 billion if all countries come in. Lord Keynes remarked that this was not so much less than their suggestion of \$8 billion plus 50 percent. He said that he would communicate this to London, although on the whole they felt that anything less than \$12 billion would be insufficient. Lord Keynes asked Mr. White whether we could supply him with a table showing what quotas an aggregate Fund of \$8 billion or \$10 billion would give the small countries.

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2. The discussion concerning the second point, the limitation of commitments was very brief. Lord Keynes stated that they had set up a formula according to which the United States' voting quota is \$2.5 billion and the United States' commitment quota is \$3 billion. He then asked Mr. White whether there is any strong feeling in the United States about the possibility of becoming a scarce currency. Mr. White said that there is not. Lord Keynes then asked concerning the Canadian reaction. Mr. White stated that he thought that there was little feeling on this point in Canada.

3. In regard to the point 3, Lord Keynes stated that the feeling in London was strong against a country's giving up its gold to the Fund. Under certain conditions the gold of creditor countries could be abstracted from the Fund by supercreditor countries so that the former countries could never get it back. He added that providing for including this gold in the monetary reserves of the contributing countries is not strictly proper since there are two claims against this gold. Mr. White stated that this might not be sound practice for some countries, but that it would be for others. In regard to the Fund dealing in the securities of member countries, Lord Keynes stated that the Fund might use the securities of one country as collateral to borrow money in a second country. Mr. White stated that such operations could only be entered into with the consent of both the countries involved. Lord Keynes stated that he had no objection if both countries agreed, but that he still objected concerning the Fund's being allowed to use the gold contributions.

Mr. Bernstein stated the difference between our views was fundamentally whether the Fund should have common reserves or separate pockets of resources. He proposed that resources should be placed in a common pool, which shall be used for the benefit of those who need them and not for the benefit of the exporting countries. We wish to limit the emergence of scarce currencies by using gold to strengthen the Fund. Lord Keynes answered that his free gold achieves the purpose of greater security for multilateral clearing. Mr. White emphasized that all this provision does is to give the Fund reserves of gold to buy scarce currencies.

Mr. Opie digressed to ask Mr. White concerning the Fund's operations in the exchange market. Mr. Robertson stated that the Fund's operations in the foreign exchange market will still be competitive even if they are carried out through Central Bank. Mr. Bernstein explained that the Fund enters the market merely to support the rate of exchange, at the request of the Central Bank and acts through the Central Bank in its operations. Mr. White added that without such arrangements, the Fund would be very inflexible indeed.

Mr. Meade asked whether the Fund will purchase sterling from any one but England and stated that this is the fundamental difference

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between the Fund and the Clearing Union. Mr. Bernstein replied that the operations by which a country, say Brazil, sells sterling will work out exactly the same way under the Fund as under the Clearing Union and that the Bank of England will still be able to see how the operations are carried out since the Fund carries no sterling account except with the Bank of England. However, there is a discretionary aspect in the Fund as we set it up which there is not under the Clearing Union. Mr. White added that where there is no intentional difference between the two plans, there is no difference. Therefore, we ought to start with a discussion of principles. Lord Keynes added that since we say that we agree that both plans provide multilateral clearing, he thought that we could proceed and that we could argue our language difficulties on this point later.

4. and 5. In regard to the size of the gold subscriptions, Lord Keynes remarked that if the gold contributions are merely to be pledged, the argument for large gold subscriptions becomes smaller. He added that the gold requirement adds a complex element which he finds very difficult to understand. Mr. White stated that the difference between our proposal and the British suggestion is that they would like to whittle down the initial gold contribution, and that subsequent contributions are voluntary under the British proposal but obligatory under ours.

There followed a brief discussion of the different conditions under which the Fund gets gold according to our proposal and according to the Keynes suggestion. Mr. Bernstein thought that the difference between the two arrangements is that under Lord Keynes' suggestion when the Fund acquires additional gold it acquires additional liabilities.

Mr. White then suggested that we devote the remaining time to questions. Mr. Pasvolaky asked about the conversion operations from one currency to another and the degree of freedom of exchange. There was a brief discussion of freedom from exchange control for current transactions.

D. F. Richardson

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Meeting in Mr. White's Office  
September 29, 1943  
3:30 P.M.

Present: Lord Keynes, Messrs. Robertson, Robbins, Opie, Easter, and Thompson-McCauley of the British Treasury  
Messrs. Pnevolsky, Livesey and Brown of the State Department  
Dr. Goldenweiser, Mr. Gardner and Miss Bourneuf of the Board of Governors  
Mr. Coe of the Office of Economic Warfare  
Mr. Cohen of the White House  
Messrs. White, Bernstein, Casaday and Luxford and Miss Richardson of the Treasury Department

Before the meeting the attached table showing the estimated quotas of various small countries which Lord Keynes had requested was handed around and discussed.

Mr. White opened the meeting by stating that in pursuance of the discussion of the last meeting on whether or not all transactions should be in terms of units, we have prepared a simple statement of debits and credits to show that whether or not transactions are in terms of units, the methods used are alike and are simple. Lord Keynes agreed that there was no difference between the two methods in operation but added that England's initial subscription to the Fund would look like a loss on the books of the Bank of England. He also stated that when the Bank of England paid pounds to the Fund in order to obtain dollars, the bookkeeping position of the Bank of England would not change at all, whereas the actual position would deteriorate. In reply it was stated that there is nothing to prevent the Bank of England from setting up its books in any way it pleases and that it could carry an account to show the unused portion of the permissible quota.

Lord Keynes suggested that we should attempt to reach an agreement concerning the substance of the proposal first and that we could discuss matters of language later.

1. The discussion proceeded to the first topic of the agenda for today, the provisions for standards of exchange stability. Lord Keynes remarked that it appears clearly from the statements in the Questions And Answers that all countries accept stability of their exchange rates in terms of gold. In effect this means a return to the old gold standard. Lord Keynes stated that when one currency becomes scarce and other countries pass their permissible quotas it was only right that the obligation of the latter countries to the Fund should cease. However, he added that there should be consultation as to ways of maintaining stability of the exchanges.

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Mr. Robertson asked Mr. White whether countries with a continuing favorable balance of trade would be obliged to continue buying gold. Mr. White stated that they were. Mr. Robertson then asked whether these countries had any obligation except to go on buying gold. Mr. White answered that the only immediate obligation of such a country is to accept gold, although it might be subject to the report provision. Lord Keynes then asked whether this meant that other countries were obliged to go on supplying gold. Mr. White stated that if these countries had exceeded their permissible quotas and had not been given approval for a change in exchange rates, they would have to maintain their exchanges by appropriate means including the use of gold.

Mr. Coe then stated that accepting Lord Keynes' point that if one currency becomes scarce other countries have no obligation to maintain their exchanges in terms of that currency would not be acceptable to this country. He then added that if all gold were coming to the United States, and the United States were patently at fault, that the Board would see the necessity for action and would take some action. Lord Keynes answered that this was not enough and that London would insist that limitation of obligation be stated in concrete terms. Lord Keynes then explained that what he wants is exchange stability in terms of units and not in terms of gold. Thus, when there is no more units available, a country's obligation to the Fund ceases.

Mr. White answered that the question was whether in subscribing to the Fund a country did not subscribe to the stability of exchange rates. Lord Keynes answered that it has been decided that when a country exceeds its permissible quota, the obligations of the Fund towards that country cease, and that he felt that the obligations of the country towards the Fund ought to be handled symmetrically.

Mr. Bernstein then stated that when one country's currency becomes scarce in the Fund other member countries should have a right to restrict their demands for that currency, and that in that case there is no obligation for these countries to sell gold. Mr. Robbins restated this point as follows: When one currency becomes scarce, all countries with ample gold holdings are obliged to go on paying gold to the country whose currency has become scarce, but they, as well as the Fund, may impose rationing upon the scarce currency. Mr. Bernstein explained that the Questions and Answers had made it clear that the imposition of rationing by the Fund meant that the Fund would implicitly approve rationing of scarce currencies by the member countries.

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Mr. Robbins then stated that he thought that Lord Keynes would accept a provision to the effect that when one country's currency becomes scarce, other member countries would be entitled to ration that currency.

D. F. Richardson

DFR:ff 11/1/43

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*Conf - Secy*

**Memorandum of a Meeting in Mr. Lucas' Office  
 October 21, 1943**

**Present:**

- Messrs. Lucas and Furey of U. S. Commercial Company**
- Mr. Rosen of Office of Economic Warfare**
- Messrs. Merchant and Fleming of State Department**
- Mr. Glavin of Treasury Department**

The meeting was called to consider the acquisition of \$10 million in free escudos by the U.S.C.C., the dollar proceeds to be used by Portugal for the purpose of financing the purchase of wheat and other American commodities. (See attached memo)

Mr. Lucas proposed that the U.S.C.C. acquire the \$10 million in escudos and resell one-half of them to the British. His reasons for the proposal resale to the British were: first, that the free escudos would be a year's supply for the U.S.C.C. at the present rate of expenditure, and second, that the British needed the escudos.

I agreed to clear the matter of the purchase of the escudos by the U.S.C.C. and also of the resale of \$5 million in escudos to the British.

**Note:** Mr. Bennett cleared the above proposal of U.S.C.C. with Mr. Fable and phoned on October 22, 1943, that Foreign Funds had no objections to the proposed plan. This information was phoned to Mr. Lucas.

**G. D. Glavin**

**CDG:lr 10/26/43**

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Memorandum of a Meeting in Mr. Bernstein's Office  
October 27, 1943

Present:

Mr. Eurico Pentado of the Brazilian Embassy  
Messrs. Lufford, Bernstein and Glendinning of  
the Treasury.

Mr. Pentado submitted a memorandum requesting that the gold sale provision in the Stabilization Agreement of 1937 with Brazil should be raised from \$200 million to \$300 million.

Mr. Bernstein stated that the raising of the gold sale provision would have to have the Secretary's approval but that he saw no reason why the agreement should not be amended as requested. He stated that the Treasury would draw up a tentative draft of an agreement amending the gold sale provision to \$300 million and would submit the draft to the Brazilian Embassy for its consideration.

C. B. Glendinning

CBG:lr 10/28/43

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BRAZILIAN EMBASSY  
Washington

October 27, 1943

MEMORANDUM

The Brazilian Government requested its Embassy to obtain from the United States Government an increase from \$200,000,000 to \$300,000,000 in the Financial Agreement signed in Washington in 1937 by the Secretary of the Treasury, Mr. H. Morgenthau, Jr., and the Brazilian Minister of Finance, Mr. Arthur de Souza Costa, which agreement was renewed in July, 1942, and again in June, 1943.

The reason for such request is that the \$200,000,000 limit will soon be reached, since, under said agreement, the gold purchases in New York amount to \$171,588,609.46 to date.

Mr. Eurico Penteado, Financial Attache to the Brazilian Embassy, requested an appointment with Mr. Bernstein of the United States Treasury Department, with a view to ascertaining informally the reaction of that department to the contemplated increase in the maximum limit of the United States-Brazilian Agreement.

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*Conf - Gen  
New East*

Memorandum on Meeting in Mr. Bernstein's Office,  
November 4, 1943

Present: Messrs. Waig and Robertson for the British Treasury  
Messrs. Bernstein and Glavin for the United States Treasury

The meeting dealt with a number of subjects, principally the reorganization of the Saudi Arabian monetary system and the joint United Kingdom-United States gold sales program in India and the Middle East.

Professor Robertson referred to the previous inquiry by the United States Treasury concerning the supplying of sovereigns by the British against gold earmarked for them in this country for the purpose of meeting the expenses of our legation in Saudi Arabia. He stated that he had received word from London that arrangements could be made whereby we could obtain sovereigns for gold earmarked here or perhaps riyals directly for dollars. He added that his information was not clear and that the details of the plan would have to be discussed later.

In regard to the arrangements for the minting of the remaining 7 million riyals for Saudi Arabia, Professor Robertson suggested that the dies be flown to Pretoria, South Africa, from India unless the United States desired to mint the coin here. He did not know whether silver was available in South Africa to begin minting at once but was of the opinion that the silver would have to be supplied directly from our stocks. Mr. Bernstein asked if the British would arrange for the shipping of the silver from New York in the event this plan were adopted. Professor Robertson thought that this arrangement would be satisfactory. It was agreed that the minting and shipping costs would be handled in this case as they were for the 3 million riyals minted in London and India.

The question of the reorganization of the Saudi Arabian monetary system was then discussed. Sir David Waig expressed the tentative British views on the subject as set forth from London (see attached cable from the British Treasury), namely, that Saudi Arabia should be included in the sterling block, maintaining its reserves 100 percent in sterling and pooling its other foreign exchange assets. This position was defended on the ground that Saudi Arabia's trade was largely with the sterling area. Mr. Bernstein stated that while he had not had the opportunity to talk over the details of a currency plan for Saudi Arabia with Mr. White, our tentative views were that the Saudi Arabian currency

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might be backed by gold, sterling, dollars, and perhaps other acceptable foreign exchange.

Sir David Haley was insistent on the point that the reserves should be kept in a single currency to avoid exchange risks and no basic for agreement was reached. Sir David suggested that the discussions of this problem might better be handled in London. He asked that we submit a statement of our suggested plan for a Saudi Arabian currency system to the British Treasury.

The discussion then turned to the question of the joint British-American gold sales program. Professor Robertson stated that the British planned to sell 375,000 ounces of gold, plus additional gold up to this amount for us if we agreed, in the second three month's period beginning November 1 in the Middle East exclusive of Egypt. The same of the United States in the proceeds would be either our actual requirements for local currencies (not to exceed the proceeds of the sale of gold in any given country) or 1/2 the total proceeds whichever was the smaller. In India, the British proposed for the same period to sell 750,000 ounces for themselves and an additional 250,000 ounces for us. Mr. Bernstein stated that before taking action on this program, we desired to survey our needs for the local currencies in question, particularly in the Middle East.

Professor Robertson reported that the total gold sold in the Middle East exclusive of Egypt for the first three months was about 200,000 ounces; he said that he would furnish us with a detailed breakdown of the sales by countries shortly. Concerning the proceeds of the sales in Iran, Professor Robertson said that all rials acquired prior to September 23 had been used by the British. He proposed that we receive all of the rials sold subsequent to that date and all sold for an indefinite period in the future if we continued with the joint program and agreed to arrange for the transfer of the rials on hand to us at once for deposit either in the Banque Parisis or in the Imperial Bank.

In reference to the Treasury proposal that we trade Syrian pounds acquired by Lend-Lease with the British in exchange for rials at the official rate, Professor Robertson stated that this plan would be impracticable from the British standpoint.

Sir David Haley made the suggestion that periodic meetings should be held between the British and the United States Treasuries to consider problems of mutual interest in the Middle East, et cetera.

C. D. Glenning

CDG:lr 11/6/43

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*Conf - General*

Dec. 4, 1943

Mr. White

Mr. Taylor

Subject: Office of Strategic Services and Financial Attache at Lisbon.

On December 7, Mr. Hyde and Mr. Foster of the Office of Strategic Services called to discuss matters pertaining to Mr. James S. Wood, Financial Attache, American Legation, Lisbon. They stated that they had recently received a report from Mr. Thomas, the chief O.S.S. representative for the Iberian Peninsula. Mr. Thomas was unparing in his praise of Wood's work. Mr. Hyde supplemented this by stating that Wood had virtually saved the O.S.S. program in Portugal. When asked to comment further on this, Mr. Hyde indicated that the relationships of previous O.S.S. representatives with State Department officials in the field had not always been of the highest and that some of their men had not been too apt in keeping their connections under cover. Mr. Wood seems to have gotten along exceptionally well with the Legation people and is doing good work for the O.S.S.

An extract from the Thomas report which was shown to me, stated that Wood was very concerned over constant requests that he was receiving from the Treasury Department for currency and financial information. Wood had informed Thomas that it was just not physically possible to answer all the Treasury requests and still do the other work involved. Thomas had suggested in his report that the O.S.S. contact Treasury to see if it were willing to assign an additional Treasury representative to Lisbon to carry through with the work that the Treasury Department seemingly desired to have done. Both Mr. Hyde and Foster stated that upon the receipt of the Thomas report, they had agreed to go to the Treasury immediately and have a frank discussion with officials there. They told me that they knew they could talk freely and frankly with the Treasury and asserted in this regard, that they wished other Departments of our Government were as fully aware of the importance of the work being done by O.S.S. and would cooperate with them to the same extent.

I told the O.S.S. representatives that the Treasury was cognizant of the difficulties confronting Wood and that the requests that had been presented to Wood were designed to indicate to him the type of information we desired, in the event that it was possible for him to obtain such information in the course of his duties. Mr. White had been considering the desirability of sending another Treasury man to Lisbon. The O.S.S. representative wanted to know if we had any particular person in mind and when I replied that we were thinking of sending one of our Treasury representatives from Algiers to Lisbon, they said that such a move would be very valuable for no one in Lisbon, at the present moment, had any intimate knowledge of the situation in North Africa. Mr. Foster said that in the event we sent another man to Lisbon, O.S.S. would like to bear some of the burden of Wood's salary and expenses abroad. It was clearly understood that if a second Treasury man were sent to Lisbon, he would work primarily on matters of interest to the Treasury. I explained to the O.S.S. representatives that it

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might tend to facilitate the dispatch of our representative to Lisbon if C.I.A. would send a letter to Mr. White briefly indicating that U.S. services were being fully utilized and the desirability of having another man stationed in the area. This they said they would do immediately and attach to the letter extracts from the Deane report referred to above.

I also suggested that if they were interested in bearing part of Wood's expenses, we would consider writing them a letter stating our views on the matter. They said they would appreciate receiving this.

ENT:Del  
12/8/43

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*Conf - Gen - War Dept*

Meeting in Mr. Bernstein's Office  
November 29, 1943

Present: Mr. McCurrach for the British Treasury  
Messrs. Bernstein and Glendinning for Treasury

The meeting dealt with the gold sales program in the Middle East.

Mr. Bernstein referred to Mr. McCurrach's letter of November 16, 1943, setting forth data on the gold sales in Iran from September 23 to November 11, 1943. It was pointed out that the data was incomplete inasmuch as the figure for the total amount of gold sold was omitted. Mr. McCurrach agreed to give us this information in order that 65 million rials might be transferred to our account immediately.

Mr. Bernstein referred to the fact that the British had utilized all of the rials from the gold sales prior to September 23. He stated that while Treasury was willing to accept the word of the British Treasury that the use of these rials by the British had been unavoidable, Treasury wanted to be sure that it would obtain the maximum rial receipts from the gold sales subsequent to September 23. Mr. McCurrach was asked to ascertain whether the rate of sales in Iran might not be stepped up and also to furnish us with comparative data on the amounts of gold sold in all Middle East areas.

The question of our needs for Middle East currencies was then discussed. Our estimated requirements for Middle East currencies for the next three months' period were indicated as follows:

Egypt: approximately 500,000 Egyptian pounds  
Iran: approximately 135 million rials  
Iraq: specific requirement not immediately available but in no case to exceed 200,000 dinars and perhaps as low as 50,000 dinars.

In order that the U. S. Mint might begin preparations for the striking of 7 million riyals, Mr. McCurrach was asked to obtain by cable the following data on the Saudi Arabian riyal: (1) gross weight, (2) fineness, (3) diameter and thickness, (4) metal or metals alloyed with the silver, (5) fineness and weight tolerance allowances. Mr. McCurrach informed Treasury that the dies for the riyals were coming by fast boat from England.

C. D. Glendinning

CDG:lr 12/10/43

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RG 56  
Entry 81 Treasury  
File ACC 668155  
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RG 56  
 Entry ACC# 066A055  
 File CON G-MORAL 1945  
 Box 70

*Cherry - Pen - misc*

May 1, 1945

MEMORANDUM FOR THE FILES

Swiss offer to purchase \$2.4 million of gold Napoleons to be delivered in Lisbon

Mr. Thomas telephoned Mr. Glasser on April 19, 1945 reporting that the Swiss National Bank would be willing to pay the following prices for the \$2.4 million gold Napoleons (per kilo of fine gold):

4,825 Swiss francs, if the gold is to be held subject to the Treasury's restrictions.

4,869.80 Swiss francs, if the Swiss are to be permitted to dispose of the gold in Lisbon.

The Bank further would agree to provide 10 million Swiss francs subject to delivery of the gold within 60 days of the date of sale.

The price of 4,825 francs per kilo (at 4.29 francs to the dollar) is equal to a price of \$34,982,353 per fine ounce and is the price paid by the Swiss for gold earmarked in London and Ottawa.

The price of 4,869.80 francs per kilo is equal to a price of \$35,367,163 per fine ounce and is the price paid by the Swiss for gold in Bern.

On the basis of the gross weight of these coins, as shown by the records of the Federal Reserve Bank of New York and the statutory fineness of .900, the value of the gold at \$35 per ounce and the estimated cost of the Swiss franc proceeds per franc, (disregarding cost of moving the coins to Lisbon and other similar costs) is shown in the following table:

| <u>Gross troy ounces</u> | <u>Fineness</u> | <u>Fine troy ounces</u> | <u>Dollar Value</u> |
|--------------------------|-----------------|-------------------------|---------------------|
| 74,662.34                | .900            | 67,196.106              | \$2,351,863.71      |

Cost per franc

| <u>Bid prices</u>     |   |
|-----------------------|---|
| 4,825 fr. per kgm.    | \$1.00 = 4.2736646 francs \$ .23389878 = 1 franc  |
| 4,869.80 fr. per kgm. | \$1.00 = 4.3156314 francs \$ .231746319 = 1 franc |

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If the proceeds in Swiss francs, acquired by the U.S. Commercial Company at 4.27536646 francs to the dollar are sold to the Fund at 4.29 francs to the dollar, the loss resulting from the difference in the two prices would amount to \$1,185.86. In addition the U.S. Commercial Company will sustain a loss of at least \$6,859.93 because they purchased the coins at statutory weight and fineness and must sell at actual weight and possibly actual fineness.

S. D. Southworth

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 File CON General 1945  
 Box 70

*Conf. case off*

MEMORANDUM FOR THE FILES

April 23, 1945

Meeting in Mr. Coe's Office  
 April 23, 1945  
 9:30 a. m.

Present: Mr. Tsuyee Pei  
 Mr. Coe  
 Mr. Friedman

Subject: Gold exports to China.

Mr. Coe explained that he had called in Mr. Pei in accordance with agreement between Secretary Morgenthau and Dr. Soong that Mr. Pei and Mr. Coe should explore outstanding questions. Mr. Coe indicated to Mr. Pei that he felt that it might be desirable to begin discussions as soon as possible. He asked Mr. Pei what questions did he wish to raise at this time.

Mr. Pei said that he wished to take up the question of gold shipments. He outlined the history of gold sales emphasizing that the sale had been begun and continued on the basis of commitment made by President Roosevelt. Mr. Pei indicated that it was the intention in the future to cease deposit sales and to raise the gold price in accordance with market conditions.

Mr. Pei was asked about the current inflationary situation with particular reference as to why the change for the worse during the last three or four months. He said that the two main reasons for the current spurt were:

- (a) The increased confidence resulting from the end of the Japanese drive had resulted in renewed hoarding of goods. During the period of the Japanese drive, merchants and others had tended to prefer a more liquid position because of the danger of evacuation. Now merchants and others were again eager to go into goods.
- (b) The concentration of troops on the Kweichow frontier against the Japanese drive had resulted in draining food supplies from neighboring provinces such as Hunan and Szechwan since Kweichow was a food deficit area. This had caused food prices to rise and, in turn, had led to a general price rise.

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Mr. Pei said that the Chinese were very much concerned about the difference between black market price and official price of gold and hoped to be able to wipe out this difference in the future. He said that the lack of gold on hand made it necessary to sell below market price (but did not indicate why this was necessarily so.) He pointed out that the Nelson Mission had been having difficulties because of the inflationary situation since contractors were defaulting in their contracts on account of price changes.

At the request of Messrs. Coe and Friedman he said that he would make available that afternoon both a memorandum and statistics giving the latest information on gold. Mr. Coe indicated that the matter would be given immediate attention.

Mr. Coe asked Mr. Pei whether there were any other matters which he wished to raise. Mr. Pei said that in the future he would take up with the Treasury the question of textiles. He outlined the history of the textile proposals, how the Chinese had cut their request from 75,000 tons to 40,000 tons, to 22,000 tons, which was the amount now being discussed. Thus far they had only received a commitment to the extent of 700 tons. They hoped, however, to get an additional 9,000 tons from Brazil and Mexico (5,000 from Brazil and 4,000 from Mexico). Moreover, they hoped that FEA would be able to provide an additional 4,000 tons. Mr. Pei said that the Army was transporting into China the 3,000 tons which they had in India but that these textiles had already been earmarked for Chinese Army uses.

Mr. Pei explained that the Army was very much concerned about the internal situation in China because despite anticipated increase in hump tonnage from the present level of about 50,000 to 60,000 or 70,000 tons or more there would still be a general shortage of transport because of increase in need for transport facilities to provide both the needs of the American Army in China and for the equipping of the 36 to 39 Chinese divisions. This made it necessary to depend in ever increasing measure on local supplies and it was for this reason that the U. S. Army was concerned about a breakdown in the economy.

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 Box 70

*Conf - Gen - Misc*

MEMORANDUM FOR THE FILES

April 19, 1945

Meeting in Mr. Bernstein's Office, Room 3445,  
 April 9, 1945 at 4:45 P.M.

Present: Mr. Pfenniger, Swiss National Bank;  
 Messrs. Strachale and Thoman, Swiss Legation;  
 Messrs. Glasser and Southworth, Treasury.

Mr. Glasser asked the Swiss if the Swiss National Bank would be interested in buying with Swiss francs some \$2.5 million of gold Napoleons now located in Gibraltar. There was some discussion of the possibility of shipping the coins and of their sale by the Swiss in Lisbon. Mr. Glasser was unwilling that the coins should be sold anywhere by the Swiss until permission should be given by the Treasury and suggested the possibility of their being held under earmark in Lisbon or Gibraltar or possibly held in Switzerland if shipment could be arranged. Mr. Pfenniger indicated that if purchase should be made, the coins would be melted down.

Mr. Pfenniger agreed to refer the matter to the Swiss National Bank and to discover what offer, if any, they were willing to make.

S. D. Southworth

SDS:em 4-19-45

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*Conference*

MEMORANDUM FOR THE FILES

4 June 1945

Meeting in Mr. Coe's Office  
4 June 1945  
10:00 a.m.

Present: Col. Bernstein, Messrs. Coe, Hoffman, Moskowitz, Glasser, Locker, J. Friedman, Scott, Aarons, Nathan, Gunter, Mrs. Gold, Mrs. Adler

The currency problems facing the U. S. Army in various European countries were discussed first.

1. Czechoslovakia:

Colonel Bernstein stated that the War Department had prepared a cable changing the rate of exchange of the Czech koruna from 30 to the dollar to 100 to the dollar. He felt, however, that it would not be too bad if the cable were not sent since it has already been settled that troop pay is to be made at the rate of 100 to the dollar. If the cable is not sent it will be necessary, however, to take the position that we can requisition anything we need at the rate of 100 to the dollar.

In this connection, Colonel Bernstein inquired whether anyone had any idea as to what kind of ultimate settlement we would make in Czechoslovakia and suggested that the Treasury should supply the answer to this problem. Mr. Glasser remarked that he felt that the currency situation in Czechoslovakia would be among the worst in Europe and suggested that Colonel Bernstein keep close tabs on developments there. The discussion on this subject was closed by Colonel Bernstein's remarking that he would try to get the cable mentioned above off and would, if necessary, send someone to Czechoslovakia to collect the necessary supporting data.

2. Germany:

In reply to an inquiry from Colonel Bernstein, Mr. Gunter stated that if Mr. D. W. Bell approves, a currency expert from Mr. Hall's office will be sent to Munich in the near future. Mr. Glasser pointed out that if possible the Treasury would like to have the printing office in Munich take over the printing of currency for other countries as well as for Germany, e.g., Austria, in order that the Bureau of Engraving and Printing may be relieved of this task.

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