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By EL NARA Date 7/8/76

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of 25 million dollars would be taken over, from the first proceeds, to the Inter-Governmental Committee on Refugees in accordance with the Paris Reparations agreement--our feeling being that this would accord with the expressed Swiss desire to make further contributions to relief and rehabilitation. (d) The memorandum also mentioned the question of looted gold, and (e) indicated that certain subsidiary questions, such as patents and trademarks, had not as yet been discussed.

This memorandum was delivered to Mr. Stucki the evening of March 29. On March 30 my British and French colleagues and I discussed the memorandum with Mr. Stucki. He seemed to feel that the memorandum had advanced matters, and had put the discussions on a more concrete and specific basis. He seemed badly shaken by the facts with respect to the acquisition of looted gold by Switzerland (perhaps the more so because of Switzerland's public declarations to the effect that all looted property would be returned) and asked for further elucidation on the question of gold and the question of the percentage which would be allocated to the Swiss.

On Sunday March 31, my Allied colleagues and I prepared a memorandum setting out certain facts with respect to looted gold, and a memorandum on the subject of the percentage. The gold memorandum was primarily factual; the memorandum on the Swiss percentage pointed out that almost all of the Swiss claims were reichmarks obligations, and therefore unconvertible into hard currencies for the foreseeable future. In addition certain of the claims were claims, as for example the German deficit in the Swiss-German clearing, which merely reflected credits extended by Switzerland to Germany during the war, and which the Swiss themselves had indicated a willingness to renounce if a satisfactory overall agreement were reached. The memorandum also alluded to the existence of similar claims in Allied nations upon which compensation would undoubtedly be very small and probably distant in point of time. The memorandum proposed allocation to the Swiss of twenty percent of the proceeds of liquidation, plus a two percent collection fee. Both of these memorandums, on gold and on the percentage, together with my covering letter, are attached hereto.

I am informed that Mr. Stucki left Washington on the night of March 31 and that he will discuss these matters in a meeting of the Swiss Federal Council on April 3. He is to return to Washington in about one week. In the interim most discussions between the Allied and Swiss delegation will cease except possibly for certain discussions on the technical level. Since Mr. Stucki's

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departure is certain to excite some press comment, I have canvassed with my British and French colleagues the question whether an explanatory press release would be desirable. We have agreed that a release would not be desirable and I have therefore issued strict orders to all persons on the American staff that, despite the questions which may arise during the next few days, no information whatsoever except confirmation of the fact of Mr. Stucki's departure and the anticipated date of his return are to be disclosed to the press.

cc: Mr. Byrnes

ESP: SJN: pkf

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Authority ND 760050

By EL NARA Date 7/8/86

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The Allied Delegations are surprised that at this stage in the negotiations the proposal should again be made by the Swiss Delegation that the questions in issue should be submitted to arbitration. A suggestion to this effect was made in Stucki's statement on March 21, but was not pressed. It reappears now only after the Allied Delegations had fully answered all the points raised by the Swiss Delegation, and had, in a spirit of negotiation and to meet the Swiss point of view, made considerable concessions.

The Allied Delegations are unwilling to regard the offer of arbitration as other than a demand by the Swiss that the search for a method acceptable to Switzerland of giving effect to the just requirements of the Allies should be indefinitely postponed. The only result would be that, even if some technical point could thus be decided, precisely the same issue of practical measures to meet the situation would nevertheless remain to be settled. Further, such a delay would involve the deterioration of the German assets which have to be liquidated, and possibly the prolongation of measures which for their part the Allies would have to maintain to ensure that no German assets fail to be uncovered.

The Allied Delegations remain of the opinion that since the Swiss Delegation has itself advanced proposals which were based upon the uncovering and liquidation of German assets in Switzerland, no fundamental issue of national or international law exists as an impediment to the execution of the proposals made in the Allied memorandum of March 29. The question put by the Allied Delegations is whether Switzerland is willing to cooperate in uncovering German assets and German loot in Switzerland and devoting them to such purposes as the Allied Governments decide to be proper. This question is not one of law, but of expediency to be decided by the Swiss Government itself. Accordingly the Allied Delegations conclude
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arbitration is put forward as an expression of Swiss reluctance to take practical measures to meet a state of affairs for which world opinion demands an early and satisfactory solution. The Swiss proposal to arbitrate means that these negotiations, which the Swiss as well as the Allies requested, should terminate forthwith. The Allied Delegations are reluctant to assume that the Swiss Delegation seeks a ground upon which to withdraw from these negotiations and to prolong the present unhappy situation.

It is, I think, admitted that for their part the Allied delegations made notable concessions to Swiss opinion and circumstances. In deference to Swiss sovereignty it has been proposed that the Swiss Government with Allied assistance should itself proceed with the uncovering, marshalling and liquidation of German assets in Switzerland; that from the proceeds which are claimed by the Allied Powers a share, and a percentage to cover the cost of collection, should be devoted by the Swiss Government towards those claims of its nationals upon Germany which merit special consideration. The Swiss delegation for its part conceded that Swiss claims upon Germany which it might be reasonable to take into account in any agreement could be susceptible of reduction, for example, the elimination of the clearing debt due to the Swiss Treasury. Procedural questions apart, therefore, the chief outstanding issue is the measure of the Swiss claims which ought to be treated, in total, as having a special position. The Allied delegations recognize that the allocation of a Swiss share among individual Swiss claimants would be a question solely for the Swiss Government.

The question of looted gold, it must be recorded, is a matter which, failing solution here, would have further to be examined in the light of the Allied Declarations of January 5, 1943, and February 22, 1944, as it affects those who may now be holding gold to which those declarations apply. The countries whose and institutions have been the victims of German robberies can

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not long postpone the taking of appropriate measures for the restoration of their property whose location is known.

The Allied delegations therefore think it well at this point to state firmly that they did not assemble here in Washington to debate whether it is consistent with the status of neutrality to refuse to grant recognition to acts and procedures which it is not disputed would have been open to the late Reich. Total sovereignty within Germany has been freely surrendered to them, and the Allies rest confidently upon their rights derived therefrom. They feel that public opinion not only in their own countries but in Switzerland itself, when the facts are fully known, will confirm that the only real issue is agreement upon practical measures which the Allied Delegations continue to seek with Swiss cooperation.

Finally, the Allied delegations think it well to remind the Swiss delegation that they act here as trustees and spokesmen for all the countries which have just claims upon German external assets, and are therefore in a position to make adjustments and to offer concessions. This position only obtains if a speedy and satisfactory solution is found. Had the Allied powers less concern for possible effects on the Swiss economy, it would have been open to them already to have made such transfers of title to individual German assets, or arrangements with the countries for whom they speak, as would have created a position adversely affecting Swiss relationships with those countries.

The Allied delegations do not propose therefore for the time being to treat the statement they have just heard from Mr. Stucki as his last word. They will find themselves, however, before long, under a duty to disclose in all appropriate quarters that Switzerland has refused to cooperate in the attempt to find practical measures for marshalling German assets and returning certain classes of German loot. Informed public opinion will inevitably draw its own conclusions.