

PROPOSED RENEGOTIATION OF THE AGREEMENT

FOOTNOTE 3 310

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By *AS* NARA Date 12/20/96

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

CG 57
Box 4249

EP

AMERICAN LEGATION
Bern, September 10, 1948

1/25
1948

SECRET

No. 670

SUBJECT: Informal Discussion Between Minister
Petitpierre and Mr. Seymour J. Rubin
Concerning the Washington Accord

LEGAL ADVISER
DEPARTMENT OF STATE

AR 800.142

The Minister has the honor to refer to the Legation's telegram No. 1197, September 10, 1948, reporting details concerning an informal discussion between Minister Max Petitpierre, Chief of the Federal Political Department, and Mr. Seymour J. Rubin, Office of the Legal Advisor, Department of State.

There is transmitted herewith, as Enclosure No. 1, a memorandum covering the discussion under reference. There is also enclosed, as Enclosure No. 2, a memorandum of conversation which the Minister had with Mr. Petitpierre on the subject of Mr. Rubin's call.

Enclosures: *att.*

1. Memo of Conversation between Mr. Petitpierre and Mr. Rubin
2. Memo of Conversation between Mr. Petitpierre and the Minister

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S E C R E T

Enclosure No. 1, Despatch No. 670, American Legation, Bern.

MEMORANDUM OF CONVERSATION

DATE: September 8, 1948

PARTICIPANTS: Minister Max Petitpierre,
 Chief of Federal Political Department
 Mr. Seymour J. Rubin
 Office of the Legal Advisor

- - -

For: The Minister

From: Seymour J. Rubin

Subject: Discussion with M. Petitpierre on Washington
 Accord

As you know, I have been in Geneva for about ten days as a member of the United States ITO Delegation. On September 3, 1948, I was approached by a Mr. Max Wolf, a Swiss national and an official of the International Red Cross, who said he had heard about me through a mutual friend and that he would like to talk with me about certain matters of mutual interest. I dined with him on September 4, at which time he indicated that his superior in the International Red Cross, M. Ruegger, was interested in arranging an informal and off the record meeting between me and M. Petitpierre. Mr. Wolf explained that the interest in this matter of M. Ruegger was that of a private Swiss citizen since M. Ruegger, who was formerly Swiss Minister to London, had severed all connection with the government since assumption of the Presidency of the International Red Cross. Mr. Wolf stated that Ruegger was a close personal friend of Petitpierre and that Ruegger believed that the difficulties in relations between Switzerland and the United States arising out of differences over the Accord could be eliminated. It was intimated that M. Petitpierre shared these beliefs and that he might be more inclined to take drastic action to eliminate Accord difficulties than would be M. Stucki.

On the morning of September 8, Mr. Wolf telephoned to say that M. Ruegger had arranged for a meeting with M. Petitpierre at 6:15 P.M. at Bern. Accordingly, Mr. Wolf and I met M. Ruegger in Bern at 5:45 P.M., and had a general discussion which included expressions of interest by M. Ruegger on the disposition of the attempted gift by Japan to the International Red Cross and met M. Petitpierre at the appointed time.

After the introductions, M. Ruegger indicated to M. Petitpierre that I was present only in an unofficial and personal capacity and in response to his informal suggestion. M. Petitpierre made certain inquiries with respect to the Certification Agreement, and I told him that the Department of State had viewed the Swiss request for an extension sympathetically, as was evidenced by the two extensions which had so far been granted. I told him that we took a sympathetic view toward the Swiss request for a further extension, but

that there

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that there were certain complications which I was sure he understood. He indicated his interest in a further extension saying that although the extension was requested until the end of the year if the job could be done more quickly it would so be done. He also indicated an interest in clearing up the problems of Swiss companies not subject to the Certification Agreement, and on this point I indicated that technical conversations would probably be necessary but might well be postponed for the moment pending the solution of the general certification problems. With this point of view, M. Petitpierre agreed.

During the latter part of the conversation M. Petitpierre indicated a linking of these certification problems with the problems of the Washington Accord. I then stated that in my opinion the two problems were entirely distinct and that one regrettable aspect of the difficulties which we had encountered was the tendency to link problems which were quite distinct. I point out, for example, that there had been some indication that certain elements in Switzerland believed that the Certification Agreement might be used as a means of pressure in connection with the Washington Accord. I stated that this was not the case, that the two problems were viewed in Washington as being distinct but that it was symptomatic of the difficulties arising out of our disagreements in connection with the Accord. I stated that I had no official views to present with respect to the solution of the Accord problems, but that if, as I understood was desired, M. Petitpierre wished my private and personal analysis of the situation I would be glad to explain it. Upon his invitation, I then proceeded with the following statement:

1. It seemed to me that a realistic analysis of the problem had to take into account the reasons for disturbance on the Allied and the Swiss sides. So far as I could see, this meant that a realistic analysis and solution would have to take into account the fact that the Inter-Allied Reparation Agency had not received any payment for the liquidation of German assets in Switzerland and that it would be discontent so long as such payment was not made. On the Swiss side it appeared, based more from reading Swiss newspapers than from Swiss official statements but nevertheless reveals clearly, that there was resentment in Switzerland against the purported interference by the Allies in Swiss internal affairs. I stated that whether or not these two points were justifiable the fact was that they existed and that a solution should take into account and, in fact, be based on their elimination.

2. From this point of view, the proposal for arbitration was not particularly satisfactory. I stated that arbitration had certain attractive features including the placing of ultimate responsibility on an impartial tribunal, and that it also represented an appeal to ordinary procedures of a sort which were very attractive to democratic countries. On the other hand, there would no doubt be considerable discussion of the issues which would be subject to arbitration, and a considerable period of time might be necessary to choose the third arbitrator

and finally

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and finally and most important the arbitral process involving, as it would, the analysis not only of the Accord but of the background of the Accord would take a great deal of time. During all this period the two difficulties mentioned above would continue to exist and would continue to make more difficult relations between the Allies and Switzerland.

3. It, therefore, seemed to me that a solution which would cut away the difficulties would be better, even though technically less precise, than resort to arbitration. Such a solution would involve:

a. A lump sum payment by Switzerland to IARA and to the IRO

b. Agreement by the Allies that the responsibility of liquidation of German assets in Switzerland would be in Swiss hands with the Joint Commission disappearing or remaining merely as an organization for the exchange of information.

c. Agreement by the Allies and Switzerland that the respective countries would press forward with negotiations looking toward bilateral intercustodial settlements. I explained at this point that the intercustodial problems were so complex and differed so much between countries that the bilateral approach seemed to me, particularly in the case of Switzerland, to be not only the most desirable but the most expeditious.

d. Arrangements under which the German assets in Switzerland would be blocked or liquidated with the Swiss to have the responsibility for concluding what would essentially be a clearing agreement with either the Allied authorities in Germany or a new German Government, which clearing agreement would cover the question of compensation, etc.

At the conclusion of this statement I indicated once more that it was a purely personal analysis and was primarily based upon the thought that the two main difficulties had to be eliminated in order that a fair and speedy solution could be reached.

M. Petitpierre asked what, in my opinion, would be a fair amount to be involved in a lump sum payment. I stated that this was an extremely difficult question to answer off-hand and in the absence of consultation; however, based upon my understanding that recent figures put the amount of German assets in Switzerland at about Sfrs. 500,000,000, I would say that the lump sum payment to IARA should be Sfrs. 125,000,000 to Sfrs. 150,000,000 with an additional Sfrs. 20,000,000 being paid to IRO. These figures would compare with a total compensation of Sfrs. 250,000,000 which might be expected by the Allies if the agreement were fully implemented. I indicated that these figures were based upon my understanding of the estimate of German assets in Switzerland and that the figures might have to be revised if that estimate were not correct.

I indicated

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I indicated that in my opinion it would be fair, in effect, to give Switzerland what would amount to a discount for an advance lump sum payment.

M. Petitpierre inquired whether the payment I had in mind would be a preliminary or final payment. I indicated that I had in mind a final payment. He asked whether the Joint Commission would, under my proposal, disappear entirely. I stated that it very well could unless it was felt desirable to retain it as an organ for exchange of information. He asked if the Allies would have no further interest in the program after the payment had been made. I indicated that the Allies would, of necessity, continue to have an interest in the security aspects of the program, but that interest could be protected by including in the agreement provision for the exchange of information. The agreement could also contain specific provisions as to the manner in which the program would be carried out by the Swiss authorities and would presumably contain provisions for progress reports from time to time by the Swiss to the Allies.

M. Petitpierre reiterated the great interest of the Swiss Government in the fair compensation of the German owners, stating that this point had been the basis upon which ratification of the Accord of the Swiss Parliament had been obtained. I indicated my belief that adequate provisions on this subject could be obtained in an agreement between Switzerland and the Allied authorities in Germany or a new German Government, adding that there would be a considerable incentive on the part of a new German Government to arrive at such an agreement.

M. Petitpierre said that he would have to talk the matter over with M. Stucki. I indicated that the plan, if it could be called that, had not been worked out in any detail and that obviously even if an approach along these lines were workable many details would remain to be discussed.

M. Petitpierre asked what would be the best manner for discussing this matter further. I stated that I would, of course, report fully on our conversation to Minister Vincent and that in my opinion, if the Swiss Government were to wish to take up such an approach, the approach should be made through official channels and through the Legation in Bern. I suggested the possibility of a note from the Swiss in response to the Allied note of May 13th. M. Petitpierre suggested that a further Allied note might be desirable suggesting a conference to discuss this matter--to which I replied that a conference had been suggested in the note of May 13th, to which there was an outstanding Swiss reply. M. Petitpierre suggested that possibly the matter could be handled through informal discussions in Bern; to which I agreed.

In conclusion, M. Petitpierre said that he would think the matter over and that it would be considered within the Swiss Government and that we might receive some word shortly. He asked how long I would be in Switzerland. I stated that I would be in Geneva until about September 12, but reiterated that I was in Switzerland on other business, that I had no official instructions on this matter, and that any further discussions might better be held with the appropriate authorities in Bern.

The interview which I had began at 6:15 P.M. and ended about 7:30 P.M.

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Enclosure No. 2, Despatch No. 670, American Legation, Bern.

MEMORANDUM OF CONVERSATION

DATE: September 10, 1948

PARTICIPANTS: Mr. Max Petitpierre, Chief of the Federal Political Department
 Mr. John Carter Vincent, American Minister
 Mr. Everett K. Melby, Secretary of Legation

SUBJECT: Discussion with Mr. Petitpierre of the Visit of Mr. Seymour Rubin

At the conclusion of a conference with Mr. Petitpierre on another subject, the Minister referred to the call Mr. Rubin had paid on Mr. Petitpierre on September 8th. (Mr. Petitpierre said that he intended to mention the call himself). The Minister merely wished to mention two things regarding the visit which seemed to concern Mr. Rubin. The first was that Mr. Rubin's visit was of a strictly private nature and in no sense was to be considered as an official demarche by the American Government. The second was that Mr. Rubin himself had not taken the initiative in making the appointment. Mr. Rubin had been informed by Mr. Ruegger that Mr. Petitpierre would welcome an opportunity to discuss the Washington Accord with him; the suggestion was made in such a way that Mr. Rubin definitely had the impression that Mr. Petitpierre had inspired the remark.

Mr. Petitpierre replied that on the first point there could be no question of the private character of Mr. Rubin's visit. If he had anything to say to the American Government he would naturally do it through the Minister. On the second point his impression was just the opposite. Some time ago Mr. Ruegger had shown him a letter written by an American official whose name he could not recall to a member of the International Red Cross in which it was mentioned that Mr. Rubin desired to talk with him about the Washington Accord. Mr. Ruegger had brought the matter to his attention because they were old friends and had worked together when he was Swiss Minister in London; he, Mr. Petitpierre, had consequently agreed to it. In any event Mr. Petitpierre said he was quite certain that Mr. Ruegger had not taken the initiative.

The mystery of who started the visit and why was never cleared up.

Mr. Petitpierre

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Mr. Petitpierre went on to say that he naturally would have informed the Minister of this visit though he would have given no official reply to Mr. Rubin's proposals since this would have introduced merely another line of discussion on the Washington Accord and complicate the matter further; he saw no necessity for this since he could see the Minister whenever he wished and Mr. Thorp had gone over the matter thoroughly with Mr. Stucki only a few days before. He would, however, wish to reiterate Switzerland's position on one point raised by Mr. Rubin, that of indemnification of Germans residing in Germany. On this point he said the Swiss position was unalterable. The cash involved had only a relative, and in the final analysis no, importance. What really was at stake was the principle from which Switzerland could not cede. He was quite clear on that point personally as was the Federal Council and he was sure Swiss public opinion would never accept a deviation from this position. Switzerland could never be negotiated into a position about which it could later be said that she had taken advantage of Germany's defeat to expropriate Germans.

He hoped the Minister understood that this was really the case and was not a pretext to cover up some other reason. Switzerland perhaps had made a mistake in signing the Accord. It was easy now to say that in 1946 things should have been done differently. The important thing however was that Switzerland's word had been pledged and she would hold to it.

EKMelby/aj