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By SL NARA Date 2/4/97



OFFICE OF EUROPEAN AFFAIRS  
DISTRIBUTION OFFICE  
EMBASSY OF THE  
UNITED STATES OF AMERICA  
DEPARTMENT OF STATE

DEPARTMENT OF STATE  
OCT 1 1946  
TREATY SECTION

DEC 5 - 1946

No. 1105

Lisbon, Portugal, September 10, 1946.

SECRET

DEPARTMENT OF STATE  
DIVISION OF FOREIGN  
REPORTING SERVICES  
SEP 27 1946

SUBJECT: Transmitting Copies of Draft Memorandum of  
Accord delivered to Portuguese Government  
September 9, 1946.

THE HONORABLE

THE SECRETARY OF STATE,  
WASHINGTON.

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use it also. - des in letters  
only  
9/27/46 800.515/1-4/6  
ES*

SIR:

Supplementing Embassy's Despatch No. 1095 dated  
September 4, 1946, I have the honor to transmit herewith  
three copies of a draft Memorandum of Accord which was  
delivered to Col. Tomaz Wylie Fernandes, the Chief  
Portuguese Negotiator, on September 9, 1946.

The Memorandum of Accord under reference will be  
made the subject of a discussion between the Portuguese  
and Allied negotiators at the next meeting which is  
scheduled for Wednesday, September 11.

Respectfully yours,

For the Ambassador:

*Charles E. Dickerson, Jr.*  
Charles E. Dickerson, Jr.  
First Secretary of Embassy

DEPARTMENT OF STATE  
BUREAU OF ECONOMIC SECURITY CONTROLS  
SEP 26 1946

DEPARTMENT OF STATE  
RECEIVED

OFFICE OF INTELLIGENCE  
COLLECTION AND DISSEMINATION

Enclosure:  
Three copies of Memorandum of Accord *with orig.*

JDHanley/mgc

SECRET

Two copies with two enclosures to London  
One copy with one enclosure to Madrid

800.515/9-1046

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COPIES TO:

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SECTION OF BIOGRAPHIC  
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COMMUNICATIONS SECTION

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REPRODUCED AT THE NATIONAL ARCHIVES

UNITED STATES OF AMERICA  
EMBASSY  
LISBON

MEMORANDUM OF ACCORD

September 1946

In accordance with statements of the Governments concerned which have been interchanged, and in recognition of the accord which has been reached between the Republic of Portugal, on the one side, and France, the United Kingdom and the United States of America, on the other side, following meetings of designated representatives in Lisbon, the following Memorandum of Accord is recorded:

Article A. Preamble

1. His Excellency the President of the Council has, in notes communicated to the Allied Missions in Lisbon, indicated the recognition by the Republic of Portugal of the cessation of the Government of Germany. In his Note of 6th June 1945 (Proc. 33,23), H.E. the President of the Council informed the Allied Missions in Lisbon that the Republic of Portugal recognized, since 6th May 1945, that German State assets in Portugal were to be immobilized, pending establishment of an inter-Allied commission in Germany or of a Government recognized by the Allies. The aforesaid Note stated that, the first of these conditions having been satisfied, the Republic

of Portugal

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of Portugal had taken the necessary steps to put into the hands of the Allies all of the official archives and the other official German properties in Portugal.

2. By Proclamation No. 1, signed in Berlin on 30th August 1945, the Allied Control Council for Germany was established as the body having supreme authority in Germany and through which Germany was to be governed.

3. In furtherance of their declared adherence to Resolution VI of the United Nations Financial and Monetary Conference, and to the United Nations' Declaration on Gold of 22 February 1944, the Republic of Portugal issued Decree Law No. 34,600 of May 14, 1945, by virtue of which all German assets in Portugal were immobilized, under the administration of the Inspeccao de Comercio Bancario, a department of the Ministry of Finance. This decree was made applicable to the Colonies of the Republic of Portugal on May 23, 1945.

4. In order to settle questions relating to the marshalling and disposition of the German properties in Portugal and its Colonies, and to settle procedures for the liquidation of German property and interests in property and the disposition of resultant proceeds; in order to provide means for

partially

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partially satisfying the claims of victims of German action, the needs of countries which have been devastated or depleted during the course of war or enemy occupation, and the just claims of despoiled persons for the restitution of property looted by Germany, the Republic of Portugal and the three Allied Governments have arrived at the following understanding:

Article B. German State Property

All property or interests in property or funds, of whatever character, in metropolitan or colonial Portugal, which were owned or controlled by the German State, or its agencies, will be at the free disposal of the three Allied Governments.

Article C. Other German Property in Portugal

1. It is understood and agreed that, pursuant to legislation already existing and which shall be supplemented if necessary, all German property in Portugal, as defined in this Memorandum of Accord, shall be liquidated, transferred or sold. Such liquidation, transfer or sale shall in all cases be made so as to prevent disposition of such properties

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...er which may threaten the peace or security of the parties to this Memorandum of Accord.

2. Pursuant to the above clause, any purchaser of such properties shall be required to undertake that the acquisition of the property is not in any way, direct or indirect, for the benefit of or on behalf of persons, including entities of any nature, of German nationality, or of persons or entities acting for them. Violation of such undertaking or the making of a false undertaking shall cause the invalidation of the sale or transfer.

3. Recognizing the role of the three Allied Governments as the successors to German governmental power, and their consequent jurisdiction with respect to German property, and having in mind the cooperative measures already in force between Allied and Portuguese authorities, as well as the Decree Laws now in effect, the following procedures for the administration of this Article are established:

- a. For the execution of the provisions of this Article, there shall be established, within two months of the effective date of this Memorandum of Accord, a Joint Commission

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Commission composed of a representative of the Republic of Portugal and of each of the three Allied Governments. Unless otherwise stated, the Joint Commission shall be responsible for carrying out the terms and objectives of this Article, and for the uncovering and discovery of hidden German assets. The Joint Commission shall establish the necessary procedures for execution of its functions, including the liquidation, sale or transfer of properties under its jurisdiction. The concurrence of H.E. the Minister of Finance shall be obtained in such liquidations, sales or transfers, in those cases in which objections are made.

- b. The Joint Commission shall have the right to nominate managerial representatives or inspectors for the supervision and direction in all respects of the relevant business enterprises and to ensure the continued blocking of such enterprises pending their sale, transfer or liquidation. Pending the establishment of the Joint Commission, such nominations may be made when necessary by the three Allied Governments with the concurrence of H.E. the

Minister

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Minister of Finance.

c. Whenever there is reason to believe that any property is German-owned or controlled, the Joint Commission will undertake all investigations with the full mutual cooperation of the Allied authorities, their respective missions and the appropriate Portuguese authorities in order to obtain the desired clarification. For the purposes of this cooperation all necessary facilities will be afforded by the interested Governments to ensure the uncovering of all information regarding the existence and nature of German interests. In this connection the Inspeccao do Comercio Bancario will continue as heretofore to do everything necessary to achieve this end, affording access to all files, records and information and access to the persons concerned. In the event that it is established by the Joint Commission on the basis of all evidence, including information collected by the Allied authorities in Germany, that a property should be considered German, as defined hereinafter in paragraph 7 of Article C

of this

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of this Memorandum of Accord, the Joint Commission shall make a definite finding to that effect, unless satisfactory proof to the contrary is furnished to it.

d. Under the direction of the Joint Commission, the proceeds of the sale or liquidation of German properties in Portugal and the Portuguese Colonies, including liquid assets, such as debts, bank accounts, and bearer shares and the like, shall be collected into a single account held in the name of the Joint Commission.

e. Where sales of business enterprises take place, such sales shall be made through the means of sealed bids, except where the Joint Commission may otherwise recommend. Any member of the Joint Commission may object to a proposed sale on any of the following grounds:

- (i) That the prospective purchaser may be acting for or on behalf of firms or entities in which there is or was a substantial German interest;

(ii) That

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- (ii) That the price offered is unsatisfactory;
- (iii) That the proposed sale would impede freedom of trade, or cause undue interference with the Portuguese economy.

f. Sales, transfers or other dispositions of German property shall be made in such manner as to ensure that the property does not return to the ownership or control of entities or persons acting for or on behalf of German entities or persons.

4. In order that the liquidation of German assets as provided for in this Memorandum of Accord may be in full harmony with international law and practice, the right to indemnification in Germany of those Germans whose properties in Portugal are sold, transferred or otherwise disposed of pursuant to the terms of this Memorandum of Accord, is recognized. For this purpose the Allied members of the Joint Commission will transmit to the competent authorities in Germany a statement of the amounts realized by the liquidation or other disposition in each case of German property, with particulars of the names and addresses of the German owners of that property. The competent

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ies in Germany will take the necessary measures in order that there will be recorded the title of the German owners of the property liquidated to receive the counter-value in German money.

5. In the marshalling of German property, the following principles will be observed:

- a. The Joint Commission may recognize as being *bona fide* any liens against German property such as mortgages and charges, which arose prior to 25 August 1939, such liens being those exercisable by nationals of countries which have not been at war with the Allies, and which have been created in Portugal and are enforceable in Portugal.
- b. Similar liens created or arising out of transactions which occurred on or after 25 August, 1939, will be deemed to be invalid to the extent that the burden of providing proof satisfactory to the Joint Commission of the *bona fides* of each such transaction will be on the claimant.
- c. Unsecured claims against German debtors cannot be satisfied out of their property in Portugal.

d. Transfers,

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d. Transfers, sales or other dispositions of German property will not be delayed pending settlement of liens, but the Joint Commission will take appropriate steps to assure satisfaction of any liens that may subsequently be approved by it.

6. a. The Republic of Portugal, recognizing the urgent needs of the non-repatriable victims of German aggression, and the justness of their moral claim against German property wherever located, agrees that the first 100,000,000 escudos obtained from German property in Portugal as defined in this Article (C) or from the proceeds of such property, shall be made freely available as realized, through the Allied members on the Joint Commission, to the Inter-Governmental Committee on Refugees, for use in the rehabilitation and resettlement of such persons.

b. Further, in recognition of the urgent rehabilitation requirements of those countries which were overrun by Germany, or whose economies were depleted as a result of waging war against German aggression, and in recognition

See  
Article 1054  
Nov. 8.

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recognition of the responsibilities of the Allied Governments with respect to Germany, it is agreed that there will be transferred to the Allied members of the Joint Commission for their free disposal the balance (after withdrawal of the amount mentioned in the preceding paragraph) of the proceeds obtained from the sale or liquidation of German property covered by this Article (C).

c. Without accepting or implying any liability for the satisfaction of Portuguese claims against debtors in Germany, it is agreed by the three Allied Governments that of the funds made available to the Allied members of the Joint Commission pursuant to paragraph b. of this Article (C), \_\_\_\_\_ percent of the total so made available will be put at the free disposal of the Republic of Portugal. To the extent that there may remain outstanding Portuguese claims against German debtors, the three Allied Governments agree that the provisions of this Article do not prejudice such remaining claims.

7. The expression

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7. The expression "German property" as used in this Article (C), includes all property, other than State property, of every kind and description, and every right or interest of whatever nature in property, as well as all claims, which are owned or controlled by any person of German nationality inside of Germany, or any person who has been repatriated to Germany or who is approved for repatriation. Where reasons of humanity dictate, the Joint Commission may exclude particular properties. The term "person" includes any individual, or collective person, or any juridical person or entity having legal capacity to acquire, use, control or dispose of property or interests therein. Any juridical person or entity which is organized under the laws of, or has its principal place of business in, Germany shall be deemed to be a person of German nationality unless the Joint Commission determines that by reason of its preponderant non-German shareholding it and its interests in Portugal should not be treated as Germans.

Article D. Looted Property

1. In pursuance of its declared policy to restitute all looted property found in Portugal, the Republic of

Portugal

Article E.

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Portugal agrees to establish procedures for the uncovering and restitution of all looted property. For this purpose it agrees to establish an administrative procedure which takes into account the poverty and helplessness of the victims of German spoliation, and which will be of a simple and inexpensive character.

2. Further in pursuance of its declared policy to restitute all looted property found in Portugal, the Republic of Portugal will effect restitution to the three Allied Governments for appropriate disposition of all gold deemed to have been taken by the Germans from occupied countries and acquired by Portugal or its institutions from Germany or German institutions, including any such gold subsequently resold or transferred to third countries. The three Allied Governments undertake to hold the Republic of Portugal harmless from any claims deriving from transfers from the Republic of Portugal or its institutions of gold to be restituted according to the above declaration. On the basis of evidence presented, the Republic of Portugal agrees to restitute the amount of                      kilogrammes of fine gold.

(A separate memorandum on this point is attached).

Article E.

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Authority NND 760050By SL NARA Date 2/4/97**Article E. Heirless Property**

The Republic of Portugal agrees to take all necessary steps to place at the disposal of the Inter-Governmental Committee on Refugees, for purposes of relief, the proceeds of property found in Portugal and Portuguese Colonies which belong to victims of Nazi action who have died without heirs.

**Article F. Patents and Trademarks**

1. The Republic of Portugal agrees to adhere to the terms of the Accord reached in London on 27 July, 1946 at the twelve nation conference on the question of the treatment of German-owned patents, at such time as that Accord becomes effective. There is annexed hereto a copy of the London Accord.

2. The Republic of Portugal agrees that pending the making of similar international arrangements concerning German trademarks, it will not take or permit any action which would preclude its adherence to a policy consistent with such arrangements, and further, that it will give favorable consideration to adhering to such arrangements when formally notified of them.

Article G.

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Article G. German War Materiel

The Republic of Portugal agrees to deliver to the Allied members of the Joint Commission all arms and war materiel belonging to Germany which may exist in Portugal and the Portuguese Colonies.

Article H. German Assets Held Through Portugal

The Republic of Portugal agrees to take appropriate action through census and other means to identify such German assets as may be held outside Portugal through Portuguese nationals or institutions and to make this information available to the Allied members of the Joint Commission.

Article I. Portuguese Assets in the United States

The Government of the United States will unblock Portuguese assets in the United States at the earliest possible date according to a procedure to be determined by officials of the two Governments.

Article J. Portuguese Colonies

All the terms of this Memorandum of Accord shall be equally applicable to the Colonies of the Republic of Portugal,

and the

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and the Commission shall be the body ultimately responsible for the execution of the terms of this Memorandum of Accord in such territories.

The three Allied Governments state that they will in due time require Germany or the future German Government to confirm the provisions of this Memorandum of Accord in so far as they affect German state and her property in Portugal and the Portuguese Colonies.

The undersigned representatives of the Governments of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America state that for the purpose of this Memorandum of Accord they are also acting on behalf of the Governments of Albania, Australia, Belgium, Canada, Denmark, Egypt, Greece, Luxembourg, Norway, New Zealand, the Netherlands, Czechoslovakia, the Union of South Africa and Yugoslavia and, as it is material, the banks of issue of those countries.

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