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Madrid, February 27, 1946.

CONFIDENTIAL

No. 1680

File
4-25-46

Subject: Transmitting Spanish Note Verbale concern-
ing recognition of ACC title to German of-
ficial and quasi official assets in Spain.

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HIGH

The Honorable
The Secretary of State,
Washington.

Sir:

I have the honor to refer to the Embassy's telegram
206 of February 1, repeated to London as 59, Paris 53,
Berlin 28, by courier to Tangier, concerning the promise
of the Spanish Foreign Office to deliver a note along the
lines indicated in the subject of this despatch, and to
attach an original and translation of the corresponding
Spanish Note Verbale 153 of February 22. Advance copy of
this Note was informally delivered to Trusteeship repre-
sentatives on the 22nd, followed by formal delivery to the
Embassies on the 23rd.

The Note points to the record of accomplishment of
the Spanish Government in implementation of Bretton Woods
Resolution No. VI, (Paragraph 2 through 4, inclusive);
states that by transferring official and quasi official
assets to the Trusteeship, Spain has even exceeded the
obligations of the Bretton Woods Resolution (paragraph
5); regrets that Spain's cooperation in this respect
has been met with lack of appreciation abroad, with un-
warranted criticism in the British and American press,
and most recently with an official American declaration
charging Spain with failure to implement the Bretton
Woods Resolution and stating that its funds in the United
States would continue to be blocked for that reason (para-
graph 6) (Desp. 1620, Feb. 14); makes oblique reference
in paragraph 7 to the Trusteeship's extension of controls
to private assets; specifically suggests improvement of
the "atmosphere" and "regularization" of the political and
juridical system surrounding the administration of the
blocking law and proposes a "definitive liquidation" of
the problem on handover to the Trusteeship of official
and quasi official assets (par. 8).

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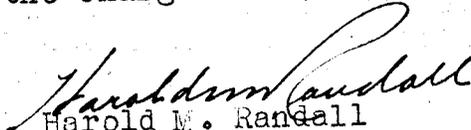
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The foregoing is by way of preamble. The note then (par. 9) proposes the following specific steps in answer to the Allied request for recognition of ACC title to all property of the former German Government, viz.:

Spain is to formally recognize succession of the ACC and Allied Embassies as its representatives to the former German Government, and its consequent title to all former German Government property, without any responsibility, however, on the part of the Spanish Government for possible political or juridical consequences of ACC possession (par. 9, I). The Allies and Spain are to agree upon a total identification of former German Government property in Spain, which is then to be handed over to the Trusteeship (par. 9, II); precedent to handover, Spain proposes deduction of the costs of administration of the blocking law and supporting internees at the request of the Allies as well as deduction of funds claimed to be of private origin (par. 9, III); funds included in the handover are not to be directly or indirectly removed from Spain except after prior accord with the Spanish Government (par. 9, IV); Spanish companies controlled by the Trusteeship through handover of shares of stock in which capital of the former German Government was invested are to be deemed subject in all respects to the nominal requests of Spanish law applicable to private corporations (par. 9, V); promulgation and implementation of the blocking law are to be deemed subject as heretofore to such political or economic rights as the Spanish Government may be entitled to invoke on the basis of international relations and particularly the relationship of Spain with the government of Germany (par. 9, VI). The note concludes (par. 10) with a request for an "opportune" exchange of notes between the Embassies and the Spanish Government on the basis of the foregoing specific proposals.

Respectfully yours,
For the Chargé d'Affaires a.i.


Harold M. Randall
Commercial Attaché

Enclosures: 109
Original and translation
of Spanish Note Verbale 153

c.c. London
Paris
Berlin

L.Horwin:pls

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The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and with reference to negotiations carried out up to the present concerning the application of the Decree Law of May 5, 1945, which was raised to the category of a Law on July 17, 1945, and most recently to the interview which took place on February 20, 1946 between the Minister of Foreign Affairs and Sir Victor Mallet, has the honor to state the following:

1. The delivery of all assets officially registered in the name of the German State or in which the latter - under different forms - had shares has been requested of the Spanish Government by the Embassies of Great Britain and of the United States. Said request appears to carry implicit the desire on the part of the cited diplomatic Missions - in their character as representatives of the Allied Control Commission of Berlin - to dispose of the cited assets for cash.

2. It seems opportune at this time to set forth the conditions under which the legislation relative to the unblocking of certain foreign assets, referred to above, arose and has been applied. When the Spanish Government was requested on May 1, 1945 by the North American Ambassador and the British Charge d'Affaires a. i. in Madrid to accept the application in Spain of a policy corresponding to the spirit animating Resolution VI adopted at the International Monetary Conference of Bretton Woods, the Spanish Government made public its solidarity with the spirit of the cited Resolution through two instruments which define the terms and scope of that policy; these are the already cited Decree - Law of May 5 and identic notes sent by His Excellency Jose Felix de Lequerica, then Minister of Foreign Affairs, on May 12, 1945 to the Ambassador of the United States and the British Charge de Affaires a. i. in Madrid.

3. Basically the engagements entered into by the Spanish Government by virtue of the cited documents are the following:
1) to ratify and facilitate the application of the Bretton Woods Agreements and in general the prescriptions of its own legislation in so far as it refers to the restitution to their legitimate proprietors of any type of assets imported into Spain after September 1, 1939 and which may have been the object of robbery, sacking, pillage, confiscation, or requisition, even though under technically legal forms; 2) to immobilize goods and assets of all types belonging to foreigners who are subjects of Axis countries or of countries which at any time were occupied by forces of the Axis countries. These engagements could be modified only by

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virtue of joint action with the diplomatic representations of Great Britain and the United States accredited in Madrid.

The end purpose defined in that his Government the use of danger world

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of from Senor Lequerena stating its efforts in preventing persons apt to place in the security of Spain itself

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and the international community based on a mutual and reciprocal respect; these expressions, moreover, corresponded in their greater part almost literally to those used by the British and North American Embassies in inviting the Spanish Government to subscribe to the Bretton Woods Agreements (Resolution VI) through their Notes of May 1. Finally, the Spanish Government stated its natural reservations in so far as the application of this legislation or the mentioned engagements might affect any right which the Spanish State might be entitled to invoke, for political as well as economic reasons, within the sphere of international relations.

4. Sufficient time has passed since the date of promulgation of the Blocking Law for it to be possible to deduce certain conclusions from experience possessed on the subject. To this end, there is special interest in bringing into relief the good will and spirit of cooperation of which this Government has at all times given proof with respect to the execution of the engagements analyzed above. Blocking has been effective since May 5, 1945 and no exceptions have been admitted other than those authorized through previous understanding between the administrative entity charged with the blocking and the corresponding sections of the British and North American Embassies; goods and assets of any type proceeding from robbery, confiscation, sacking, etc. have been restored to their proprietors whenever such precedence could be verified, or have been immobilized in the most rigorous manner in the face of simple suspicion of any irregularity in their importation; when in some cases actual or apparent subterfuges were noted in property titles, the most energetic measures have been adopted without vacillation in order to promote the regularization thereof; the totality of administrative dispositions - executive and complementary - of the Blocking Law have been issued in agreement with the corresponding services of the British and North American Embassies, etc. etc.

5. But even more has been done; actually, positions have been adopted which greatly surpass the engagements subscribed to by the Spanish Government on May 5 and May 12, 1945. Thus the totality of real estate publicly registered in the name of the former German Government has been placed in possession of the diplomatic representations of Great Britain and of the United States of America; maximum facilities have been granted in order that all of an extensive group of enterprises - juridical persons of Spanish nationality - in the capital of which officially German funds participated, be likewise controlled by those diplomatic representations; there have been placed in deposit in favor of those representations important sums in cash (pesetas or other foreign currency) as detailed in this Ministry's Note Verbale No. 580 of July 10, 1945; finally, an important sum in gold, which was found in possession of the former German Embassy without justified title and concerning the origin of which there has always existed the most well-founded suspicions with relation to Spanish legislation, was last December also transferred to the Embassies.

6. In ...

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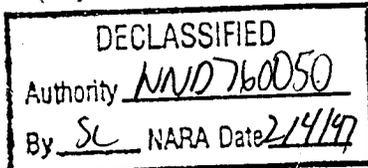
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part and without vacillating at any
promulgated legislation and defined engagements demanded its col-
laboration in the development of the policy propounded by the
British and North American Embassies. And to this end, the Ministry
finds itself obliged to state, once more with regret, the lack of
knowledge which appears to be noticeable in certain North American
or British circles concerning its position; thus, the Services
of this Department were obliged at one time to call attention to
reports of the London press which reflected the lack of knowledge
referred to above. Nor is it now possible to ignore it after offi-
cial declarations made in the United States of America to which
this Department's Note Verbale No. 87 of January 28, 1946 referred
in a concrete manner.

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7. Neither can this Ministry remain indifferent to certain
aspects connected with the interpretation of legislation on blocking
and with the engagements of the Spanish Government in this field.
The blocking of certain foreign assets today forms a part of Span-
ish legislation and its administration is under the exclusive juris-
diction of the qualified national entities, since the intervention
of any foreign service or authority is limited to that which comes
about normally in contact with and through this Ministry, as could
no less befall when treating of dispositions the scope of the appli-
cation of which is defined by the very limits of a sovereign State.
Therefore, the transformations in the property status of assets
blocked by the Law and which still remain blocked can no less than
arouse surprise and provoke the need and desire for a rapid regular-
ization thereof; the same occurs with transfers of cash arising
therefrom or from income realized outside the competent national
administrative entities; and the same could be said and with greater
force on blocking, or the facilities spontaneously granted by the
Spanish Government for the entry into possession of official assets,
to other blocked assets, the property of which as to title is clas-
sified in another manner.

8. The Spanish Government, in conformity with the policy of
blocking foreign assets which it has been carrying out with fidelity
and perseverance since May 5, 1945, would view with pleasure a
precise statement of the problem which will permit the elimination
of the difficulties and obstacles which appear today to hamper its
solution; in this sense it coincides with the desires which it
believes it divines in the steps which that Embassy has taken in
the premises. To this end and with the object of facilitating the
rapid adoption of a formula which will definitively permit that
precision, the Spanish Government enumerates the questions which in
its judgment merit examination. These are: (a) the normalization
of the atmosphere which appears to have been created around the

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execution of the ~~blocking~~ and which culminates in certain declarations and specific discriminatory measures which prejudice respectable Spanish economic interests; (b) the political and juridical regularization of the system; (c) the definitive liquidation as refers to the taking of possession of all the assets which were the property of the former Government of the Reich or constituted with funds made available thereby.

9. This Department suggests the following as practical measures which will contribute to the immediate attainment of the above cited objectives:

I. The possession by the British and North American Embassies of the statal or para-statal assets of German origin shall be explained through formal declaration in which it is stated that the Allied Control Commission of Berlin finds itself as substitute in the position which the Government of the Reich occupied and that the cited Embassies are the qualified representatives of said Commission in Spain. The Spanish State must remain free from all responsibility of a political or juridical nature with reference to the possession of said assets.

II. A complete list of German statal or parastatal assets, identified as such in Spain, shall be set up by common agreement of, and using the documentation which is in the power of this Ministry and of the Embassies; each Party will advise the other of the totality of assets of such nature of which it knows. All these assets shall be placed (a) in direct possession of the joint services of the British and North American Embassies when treating of real estate, enterprises with private juridical personality, etc. and (b) in a bank account when treating of cash sums taken over as funds of official origin.

III. The Spanish Government understands that it follows that there shall be deducted from the total of funds taken over by its Services as well as by the Embassies: (a) the expenses arising from the setting up and maintenance of the administrative blocking services in so far as they exceed those normally provided by budget; (b) the expenses arising from the interment ordered on request of the Embassies themselves for a certain number of foreigners; (c) the funds which appear to be private property but taken over in the former German Embassy, without prejudice to their return if this should be proper; these funds, in accordance with legislation in force, must remain blocked but independently of strictly official funds.

IV. With reference to cash sums, it must be understood clearly that excepting with express agreement of the Spanish Government they must not impinge upon the national balance of payments whether in the form of monetary transfer, exportation of merchandise, in payment of services, or in any other way, being activated only through mutual accord.

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all legislative enactments. Their operation is
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be invoked in their benefit. This principle it appears should
be likewise specified and the necessary measures for definitively
regulating the situation of such enterprises and the activities
which they have been carrying on up to date should be adopted by
common accord.

VI. Finally: This Ministry will consider it
indispensable that the solemn declaration be reiterated which
was set forth in its Note of May 12, 1945, in conformity with
which the promulgation of legislation on blocking of certain
foreign owned property and the administration thereof is under-
stood to be subject to the reservations which the Spanish Govern-
ment establishes on all the rights which the State may invoke, of
a political as well as economic nature, within the sphere of
international relations and particularly in relation with the
Government of the German State.

10. Thus is reflected the point of view of this Ministry
in the premises, the difficulties which today appear to be noted
and the procedure which will permit them to be overcome and to
accomplish rapidly the due exchange of Notes.

Madrid, February 22, 1945

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