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Authority NND 760056  
By JJ NARA Date 12/24/96

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Heirless Assets

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ACTION  
is assigned to

United States Senate  
COMMITTEE ON THE JUDICIARY

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May 5, LEGAL ADVISER

DIVISION OF ECONOMIC PROPERTY  
POLICY

Full 9m  
JUN 13 1949

MAY 10 1949 DEPARTMENT OF STATE

The Honorable  
Dean Acheson  
Secretary of State  
Washington, D.C.

DEPARTMENT OF STATE  
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gme

Dear Mr. Secretary:

It has come to my attention that there are likely to be discussions in Washington in the near future between delegates of the United States, the United Kingdom and France on the one side and Switzerland on the other concerning the problem of German property in Switzerland.

I wish to indicate my interest in these discussions and to express the hope that I may be kept informed of their progress and outcome.

At the time that discussions with the Swiss Government were opened in the Spring of 1946, it was hoped that these discussions would result in an agreement with the Swiss Government which would result in the speedy liquidation of German assets in Switzerland and in other neutral countries and the use of the proceeds of such property for repatriation and for the needs of persons persecuted by the Nazis. I am sure that it was felt that a speedy solution to this problem was not only of the utmost importance in the rehabilitation of such persons and of the occupied nations, but also that implementation of the expected agreement would clear the way for a German external trade freed of Nazi influence which would be helpful in the eventual and necessary rehabilitation of a democratic Germany. So far as can be learned, however, the Allied-Swiss

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Accord of 1946 has been implemented to only an insignificant degree and the hoped for results of the Accord have not been achieved.

Thus, although 50 million Swiss francs were earmarked as a priority claim on German assets in Switzerland for the benefit of persons who were victims of Nazi action, only 20 million Swiss francs - about \$5,000,000 - have until now been advanced by the Swiss Government for this purpose. This is despite the commitment of the Allied Governments in the Paris Reparation Agreement that the sum of 25 million dollars would be made available for this purpose, and despite the fact that the sums committed under the later agreement with Sweden have long since been turned over to the International Refugee Organization. As a result, an increased burden has been thrown on voluntary agencies working in this field and on the resources - largely supplied by the United States - of the International Refugee Organization. I feel strongly that in the negotiations which are expected to take place shortly provision should be made for advancing a further sum to the International Refugee Organization in fulfillment of this commitment. It is obvious that refugee needs are immediate needs and that funds made available now or in the near future will be many times more useful than funds made available a year from now or later.

In this same general connection, it has come to my attention that the Swiss authorities have consistently defined the term "Germans in Germany" under the Accord as including persecuted persons resident in Germany. It is my understanding that this means that the property in Switzerland of these victims of Nazi action is being treated in exactly the same manner as the property of Nazis and other Germans whose property

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is properly usable for reparation purposes. This is despite the clearly expressed policy of the United States, as stated in Public Law 671, 79th Congress, that property of persons in Germany persecuted on religious, racial or political grounds should be restored to such persons. If the United States, an Allied country with valid and enormous war claims against Germany, feels that it is just to release such property to such persons, it is difficult to see why Switzerland, a country which was neutral during the war, should feel it necessary to warp the language of the Accord in such a way as to treat the property of such persons as being subject to liquidation for the purposes of reparation. Moreover, 50% of the proceeds of such property would go directly to the Government of Switzerland - a result which seems most unjust insofar as the property of persecutees is concerned. I sincerely hope that the Allied delegations will press most strongly for treatment of the property of persecutees along the lines of the policy laid down by the Government of the United States in Public Law 671 of the 79th Congress.

It is my understanding also that in the 1946 negotiations, the subject of so-called "heirless property" in Switzerland was discussed and that it was agreed that sympathetic attention would be given to an equitable solution of this problem. As you know, a bill allowing the Alien Property Custodian in the United States to turn such property over to a successor organization was passed by the Senate during the 80th Congress and failed to pass in the House only because of the press of time. Bills to achieve this same aim have been introduced in the 81st Congress by Representatives Crosser and Wolverton in the House of Representatives; and a bill jointly sponsored by Senator Taft and myself has been introduced in the Senate. In addition, the United States Military Government in Germany has

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taken steps reflecting the policy of making so-called heirless property available to a successor organization which can use that property or its proceeds for the benefit of the surviving members of the community by which it was originally owned. I feel that the impending negotiations with the Swiss Government provide an excellent occasion for an attempt to settle this problem in Switzerland, and to get agreement that heirless property in Switzerland will be turned over to a successor organization.

The Government of the United States has indicated its policies with respect to these problems through its support of the International Refugee Organization, through measures taken by OMGUS, and through legislation enacted or bills introduced in the Congress of the United States. The United States has a strong humanitarian and financial interest in equitable solutions to these problems. It is my belief that the United States representatives at the impending Allied-Swiss conference should press strongly for action in the lines indicated. I suggest that a further advance of 20 million Swiss francs should be made to the International Refugee Organization immediately; that persecutees in Germany should have their property in Switzerland exempted from the provisions of the Accord; and that heirless property in Switzerland should be made available to a successor organization, to be used for the benefit of the surviving members of communities decimated by Nazi action.

I should appreciate being kept currently informed of the progress in connection with the negotiations referred to above.

Sincerely yours,



J. Howard McGrath  
United States Senator

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JUN 1 1949

In reply refer to  
EP:800.515/5-549

My dear Senator McGrath:

Reference is made to your letter of May 5, 1949 addressed to the Secretary of State concerning the forthcoming negotiations between the Governments of the United States, United Kingdom and France and the Government of Switzerland on the problem of German external assets in the latter country.

You will recall that the Swiss-Allied Accord, which provides for the liquidation of German assets, also provides that 50% of the proceeds shall accrue to the Swiss Government and 50% shall be placed at the disposal of the Allies for rehabilitation of the countries devastated or depleted by the war. In addition, it was agreed that the Government of Switzerland would pay 250,000,000 Swiss francs in gold, the latter in settlement of Allied claims based upon the receipt by Switzerland of gold looted by the Germans.

As indicated in your letter, the Swiss Government undertook to permit the Three Allied Governments to draw immediately up to 50,000,000 Swiss francs upon the proceeds of liquidation. This advance was to be devoted to the rehabilitation and resettlement of non-repatriable victims of German action through the Intergovernmental Committee on Refugees.

In regard to performance by Switzerland of the above obligation, the following may be of interest to you: The Swiss Government has paid 250,000,000 francs in gold, as provided in the Accord, but has not liquidated German assets and made available to the Allies one-half of the proceeds thereof.

The Swiss Government has stated that among the numerous issues which have arisen to prevent implementation of the Accord the following three matters are considered

paramount

The Honorable  
J. Howard McGrath,  
United States Senate.

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paramount:

1. Failure of the Allied Governments to establish an exchange rate between the German mark and the Swiss franc.
2. Failure of the Allies to provide a system of compensation for Germans whose property is liquidated in Switzerland.
3. Inability of the Allies and the Swiss Government to reach a resolution of the intercustodial conflicts question which is highlighted by the Swiss request that the United States release I.G. Chemie from the vesting processes of the Office of Alien Property.

The conference which is convening at Washington at the present time is concerned with the liquidation of German assets in Switzerland, and will seek to resolve or eliminate the issues which have thus far prevented implementation of the Accord.

Regarding the delivery of 50,000,000 Swiss francs to the Intergovernmental Committee for Refugees (now referred to as the International Refugee Organization) 20,000,000 Swiss francs were requested from the Swiss Government and were delivered. 30,000,000 Swiss francs have not been requested, but there is no reason to believe that the Government of Switzerland would reject such a request if made. However, it has not been deemed advisable to request this money from the Government of Switzerland, since other factors must be considered before reaching any decision. As you will recall, the Paris Reparation agreement provides that \$25,000,000 shall be made available from the German External Assets Program for the International Refugee Organization. It was considered advisable to obtain the funds for the International Refugee Organization from the various neutral countries with which accords concerning the disposition of German assets might develop. The basic reasons for this decision are obvious, in view of the various kinds of currencies which might be obtained and their convertibility into other currencies. For example, no request was made from the Spanish Government for the delivery of money for the International Refugee Organization when the Spanish-Allied Accord was created because of the non-convertibility status of pesetas. On the other hand, it was agreed in the Portuguese-Allied Accord that \$4,000,000 in escudos was to be delivered from the liquidation of German assets in Portugal.

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The International Refugee Organization has received all but \$7,500,000 from the \$25,000,000 program originally established. When and if the \$4,000,000 is delivered by Portugal, \$3,500,000 will still be due, and could be requested under the Swiss Accord. This amounts to approximately 13-14 million Swiss francs. It was on the basis of these facts that the Director General of the International Refugee Organization, Mr. W. Hallam Tuck, recently solicited United States support for the payment of \$4,000,000 to the International Refugee Organization from Portugal, and an additional \$3,500,000 from Switzerland.

Regarding the question of persecutees of the Nazi Regime, the Department presented its views to both the British and French Governments, supporting the United States policy as expressed in Public Law no. 671 of the 79th Congress, requesting that property of persecutees be considered by the Allies as an exception to the Swiss-Allied Accord, in order that a joint approach might be made to the Government of Switzerland on this matter. The Government of France has replied, opposing the exception of the property of persecutees, while the Government of Great Britain has as yet not replied. However, informal information indicates that the British prefer to consider each persecutee case on an ad hoc basis. The Swiss Compensation Office, charged by the Accord with administrative responsibility over assets considered to be German, has denied requests for exception on the ground that the owners were persecutees.

Your comments regarding heirless assets have been noted, and will be considered.

Since the United States is one of the Three Trustees who are signatories to the Swiss-Allied Accord acting on behalf of the nineteen nations who are represented on the Inter-Allied Reparation Agency at Brussels, it is clearly seen that no unilateral action can be taken in regard to any specific matter which develops during negotiations. Instead, the wishes of the beneficiary nations and of the other two trustee nations must be carefully considered, and any action which results must be on the basis of concerted decision by the interested governments. In this regard, reference is again made to the question of delivery of 50,000,000 Swiss francs to the International Refugee Organization. Since substantial benefits have been received by the International Refugee Organization, and since delivery of funds to the Inter-Allied Reparation Agency at Brussels

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KEY  
POINT  
UK  
objection  
in March

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