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By WBD NARA Date 12/5/96

I-13/1

491

LEGAL ADVISER
DEC 10 1942
DEPARTMENT OF STATE

EJ **TELEGRAM RECEIVED** London

This telegram must be closely paraphrased before being communicated to anyone. (MC)

Dated December 1, 1942

FROM Rec'd 5 a.m., 2d

FOREIGN FUNDS CONTROL DIVISION
telegram to London
DEC 3 - 1942
12/4/42 FF:JJR
DEPARTMENT OF STATE

FINANCIAL DIVISION
DEC 16 1942
DEPARTMENT OF STATE

Secretary of State,

Washington.

6797, December 1, midnight

494

DEC 11 1942

Referring to Embassy's 5422, September 29, 10 p.m., 5268, November 7, 10 p.m., and Department's 5213, October 22, 2 p.m.

SPECIAL DIVISION
FEB 24 1943
DEPARTMENT OF STATE

740.00113 EW

A meeting of representatives of the countries concerned was held in the Foreign Office on November 27 to discuss the final form of the declaration regarding transfers of property in enemy dominated territories and the procedure for issuing and giving publicity to the declaration.

113 EW

One. TEXT OF THE DECLARATION.

The text as approved by the meeting is as follows:

"The Governments of South Africa, the United States of America, Australia, Belgium, Canada, China, Czechoslovakia, the United Kingdom, Greece, India, Luxemburg, the Netherlands, New Zealand, Norway, Poland, the USSR, and Yugoslavia.

Hereby issue a formal warning to all concerned, and in particular

Excerpts to Mr. Reinstein 12-10-42

DIVISION OF COMMERCIAL AFFAIRS
DEC 14 1942

File 3/15/43
MAR 1 1943
DEPARTMENT OF STATE

Assistant Secretary of State
JAN 19 1943
MR. ACHESON

DIVISION OF POLITICAL STUDIES
MAY 10 1943
DEPARTMENT OF STATE

MAR 25 1943

740.00113 EUROPEAN WAR 1939/568

PS/EPM

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-2-#6797, December 1, midnight, from London

in particular to persons in neutral countries, that they intend to do their utmost to defeat the methods of dispossession practiced by the governments with which they are at war, de jure or de facto, against the countries and peoples who have been so wantonly assaulted and despoiled.

Accordingly the governments making this declaration and the French National Committee reserve all their rights to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the governments with which they are at war, de jure or de facto, or which belong or have belonged, to persons resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected.

The governments making this declaration and the French National Committee solemnly record their solidarily in this matter".

The insertion

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The insertion of the phrase "de jure or de facto" in the first paragraph and in the second sentence of the second paragraph, was pressed strongly by the Belgian and Dutch representatives. It was only accepted by the meeting on the understanding that if it met with any opposition from the Soviet Union it would be dropped without further discussion. It was learned informally after the meeting that if this phrase is retained the Foreign Office may suggest that it be taken out of the first two paragraphs and that an additional sentence be added on the following lines: "It is immaterial whether the state of war is de jure or de facto".

The Chinese, through their Chargé d'Affaires, informed Eden before the meeting was held that they would agree to join the declaration but wished to suggest that the following clause be inserted after the words "persons resident in such territories":

"...without prejudice, however, to the liability of the Axis powers and their associates to make compensation for the dispossession of the above mentioned property, rights and interests".

The willingness of China to join the declaration was warmly

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was warmly welcomed at the meeting, but this suggested clause met with no support and was strongly opposed by a number of countries. It was felt that this declaration should not be drawn into the controversial associations connected with the concept of reparations, which should be treated as a separate matter. The suggestion was not pressed by the Chinese representative.

The Soviet and the Chinese representatives both stated that in any case they were required to refer the final draft text to their governments.

The exact designation of each government in the declaration will be communicated late.

Two. ESTABLISHMENT OF A SUBCOMMITTEE OF EXPERTS.

In harmony with the purpose of the declaration as outlined in the last paragraph of Embassy's 4155, July 25, 5 p.m., attempts to introduce detailed legalistic statements into the declaration have been successfully resisted. It was felt, however, that following the declaration some study of the means of subsequently giving effect to it should be undertaken and it was agreed at the meeting on November 27 that a committee of experts should be set up with the following terms of reference:

"To consider the scope of existing legislation of Allied

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of Allied countries under which transfers and dealings of the kinds referred to in the declaration would or could be invalidated; and in this connection to receive and collate information as to the methods adopted by the Axis powers and their associates to secure control of property, rights and interests in Allied territory or belonging to residents in such territory; and to report to the committee as quickly as possible."

The Belgians and Dutch with some support from the Norwegians wished to enlarge the terms of reference and require the subcommittee to make recommendations as to the means of implementing the declaration in the various countries. It was, however, decided to restrict the subcommittee's work for the present at least to fact finding, and to consider at a subsequent general meeting what further steps should be taken.

As regards the composition of the subcommittee, H. S. Gregory, Director of the Trading Department, was nominated as chairman and the other members are to be chosen in consultation with the governments concerned. In informal conversation a Foreign Office official said it was expected that the subcommittee would have to be made up on a regional basis, and suggested tentatively that the United States, the Soviet Union, China, and the

French

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French National Committee should each nominate one expert and that the following groups should each agree on one expert: Greece and Yugoslavia; Poland and Czechoslovakia; the small western European countries, and the British dominions.

Three. PROCEDURE FOR ANNOUNCING THE DECLARATION.

Approval of the final text by the Soviet and Chinese Governments is now awaited. It was agreed that Britain, as the coordinating power, should inform the governments making the declaration 72 hours before it is made. It is likely that Eden will make the announcement in the House of Commons as nearly as possible to midday. It was agreed also that one day before the declaration is made Great Britain as the coordinating power and in the name of the participating governments should notify the United Nations other than those making the declaration and should invite them to consider marking their adherence to the principles of the declaration. In a subsequent informal conversation a Foreign Office official said he thought this would be done through British Ambassadors and Ministers in the countries concerned.

Four. GUIDANCE TO PRESS AND RADIO ON INTERPRETATION OF THE DECLARATION.

At an earlier

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At an earlier stage there was a tendency among some of the Allied Governments to prepare their own interpretations of the proposed declaration for public use after the declaration was made. In some cases these interpretations were not wholly consistent and it was felt strongly by the British that confusion and misunderstanding would result if each country made its own public interpretation without consultation with the others.

At the meeting, therefore, it was agreed that a common interpretative note should be adopted for guidance to the press and radio. The text of the note follows:

"The governments who have today issued this declaration include all the Governments of the United Nations who have suffered the invasion of their national territory by brutal and rapacious enemies.

(2). The declaration is being communicated on behalf of the participating governments to the Governments of the other United Nations, with an invitation to consider marking their adherence to the principles embodied in the declaration by some pronouncement of their own. The declaration is also being brought to the notice of neutral governments. The governments making the declaration are collaborating to arrange the maximum publicity for it, through the press and by broadcasting.

(3) The declaration

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(3) The declaration is in the form of a general statement of the attitude of the governments concerned towards the acts of dispossession, of whatever nature, which have been, and are being increasingly, practised by the enemy powers in the territories which they have occupied or brought under their control by their successive aggressions against the free peoples of the world. The declaration makes it clear that it applies just as much to transfers and dealings effected in territory under the indirect control of the enemy (such as the former 'unoccupied zone' in France) as to territory which is under his direct physical control.

(4) In the declaration the participating governments 'reserve all their rights' to declare invalid transfers of or dealings with property, rights, et cetera, which have taken place during the period of enemy occupation or control of the territories in question. It is obviously impossible for a general declaration of this nature to define exactly the action which will require to be taken when victory has been won and the occupation or control of foreign territory by the enemy has been brought to an end. Dispossession has taken many forms and all will require consideration in the light of circumstances

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which may well vary from country to country. The wording of the declaration, however, clearly covers all forms of looting to which the enemy has resorted. It applies e. g. to the stealing or forced purchase of works of art just as much as to the theft or forced transfer of bearer bonds.

(5) Insofar as transfers or dealings are confined in their scope to the territory of a particular country, the procedure of examination and the decision reached regarding their invalidation will fall to be undertaken by the legitimate government of the country concerned on its return. The declaration marks, however, the solidarity in this important matter of all participating governments, and this means that the governments concerned are mutually pledged to assist one another as may be required, and, in conformity with the dictates of equity, to examine and if necessary invalidate transfers or dealings with property, rights, et cetera, which may extend across national frontiers and require action by two or more governments.

(6) The expression of solidarity between the participating governments also means that they are agreed so far as possible to follow in this matter similar lines of policy,

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of policy, without derogation to their national sovereignty and having regard to the differences prevailing in the various countries. The governments making the declaration have accordingly decided as a first step in this direction to establish a committee of jurists, who will consider the scope and sufficiency of the existing legislation of the Allied countries concerned for the purpose of invalidating transfers or dealings of the nature indicated in the declaration in all proper cases. The committee have also been asked to receive and collect available information upon the methods adopted by the enemy governments and their adherents to lay their hands upon property, rights, et cetera, in the territories which they have occupied or brought under their control. When a report is available from this committee of jurists the whole question will be reviewed by the governments making the declaration. The other governments of the United Nations will be informed of the results of this enquiry".

In the last sentence of paragraph (5) of this note the Norwegians wish to eliminate the word "invalidate" and to substitute the phrase "to implement the invalidation". Further consideration is being given to this proposed

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proposed change.

Five. RECORDING PARTICULAR POINTS OF VIEW OF INDIVIDUAL GOVERNMENTS.

In the discussions certain governments have declared their intention to record particular points of view regarding the declaration which were not accepted at the meetings. Australia desired the adoption of a procedure for multilateral discussions to determine the precise way in which each government would implement the declaration. This was strongly opposed and received no support, but the Australian Government desires to place its view on record. It is understood that Czechoslovakia also wishes to record a statement.

It was felt that the effect of the declaration would be weakened if these special viewpoints were published and it was agreed that they should be recorded in a confidential proces-verbal. The statements will be incorporated in the minutes of the meeting of November 27 which will then be taken as constituting the confidential proces-verbal. We will send a copy of this to the Department as soon as it is available.

NPL WINANT

740.0011 E.W. 1939/598