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Authority NDP 760050

by EL NARA Date 3/8/86

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revised Swiss Accord

STATEMENT OF AMERICAN POLICY TOWARD SWITZERLAND REGARDING GERMAN EXTERNAL ASSETS AND RELATED MATTERS WHICH IS TO BE PRESENTED TO THE BRITISH AND FRENCH FOR THEIR AGREEMENT.

1. Recognition of the Allied Control Council Vesting Decree.

The Swiss Government must agree to recognize and implement the Allied Control Council decree vesting title to certain German external assets. In effect this means that the Swiss must recognize that title to all German assets covered by the decree has passed to the German External Property Commission (GEPC) and that it or its duly appointed representatives have authority to control and dispose of those assets.

2. Implementation of the Decree.

(a) In order to implement the Allied Control Council Vesting Decree the Swiss Government must:

(1) officially and publicly declare that it recognizes the Allied Control Council Vesting Decree and that the public policy of Switzerland requires that full effect be given to the decree by all institutions and individuals subject to the jurisdiction of Switzerland;

(2) agree that in the event litigation arises in the Courts of Switzerland which impedes or threatens to impede the implementation of the vesting decree the Swiss Government will, by appropriate representation to the Courts, indicate that the Courts should refuse jurisdiction because the public policy of Switzerland to give full effect to the decree requires application of the universal doctrine of international law that the courts of one country will not review the official acts of the government of another country;

(3) require all holders of German assets vested by the decree to turn them over to the duly appointed representatives in Switzerland of the GEPC;

(4) make

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- (4) make available to the representatives of the GEPC in Switzerland all information which it has concerning the actual ownership of assets held or suspected of being held in or through Switzerland for German account. Such, of course, will include the complete information obtained by the Swiss from their census of German assets.
 - (5) permit and take all necessary steps to enable representatives of the GEPC in Switzerland in cooperation with the Swiss to conduct full investigations to obtain additional information with respect to the matters referred to in (4) above.
- (b) This Government recommends that:
- (1) the actual investigative work and the marshalling of German assets in Switzerland be handled by the GEPC and that the interested governments furnish the GEPC the necessary personnel;
 - (2) there also be created in Switzerland a Mixed Commission which will act on behalf of the Allied Control Council and which will be composed of the chief GEPC representative in Switzerland, acting as Chairman, representatives of the diplomatic missions of the U.S., U.K., and France, and a representative of the Government of Switzerland which would have the following functions:
 - (a) to keep the interested governments on the Allied Control Council fully informed of the progress made in implementing the vesting decree and liquidating German property covered by that decree.
 - (b) to serve as a forum for settling questions with the Swiss Government arising in connection with the implementation of the vesting decree such as disputes concerning whether certain assets are German, etc.

3. Claims.

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- (a) No general claims (i.e. claims not secured by specific property in Switzerland) of Switzerland or its nationals shall be satisfied from vested assets regardless of whether they arise from transactions effected before, during, or after hostilities.
- (b) No secured claims of Switzerland or its nationals arising from transactions effected during hostilities will be satisfied from vested assets.
- (c) No secured claims of Switzerland or its nationals created before the start of hostilities will be satisfied from vested assets if the transaction out of which the secured claim arose was for the purpose of preparing Germany for war or had that effect, such as the sale of arms, ammunition, implements of war, etc.
- (d) Bona fide claims of Switzerland or its nationals, other than those mentioned above which are secured by specific property in Switzerland will be recognized for payment. The bona fides of each such claim will be examined. This category of secured claims will be recognized only with the understanding that they will not be satisfied at the time the specific property against which they are lodged is liquidated. Payment will only be effected from the gross proceeds of all vested German external assets in Switzerland after they have been marshalled and liquidated.

4. Liquidation.

- (a) All property in Switzerland covered by the terms of the vesting decree will be liquidated.
- (b) In liquidating such property neutral purchasers will be preferred over Allied purchasers provided the highest satisfactory neutral bid is not more than 10% lower than the highest Allied bid.
- (c) Purchasers of liquidated property must be satisfactory to the Allied powers. Without limitation of the foregoing, such property shall not be sold to any individual or organization which appeared

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appeared on the Proclaimed List as of May 8, 1945.

- (d) Proceeds of the liquidation of German external assets covered by the vesting decree will be pro-rated among the nations entitled to receive reparations in the amounts agreed upon in the Paris Reparations Agreement. Each nation will be given its share in Swiss franc credits which can be used only for purchases of goods in Switzerland or converted into other foreign exchange if agreed to by the Government of Switzerland and the Mixed Commission. In the event that the Allied representatives are satisfied with Swiss cooperation in seizing and marshalling German assets, the Allied governments will leave the matter of the transfer or use of such credits entirely to the Government of Switzerland.

5. Looted Property.

- (a) Property located in Switzerland, regardless of present ownership, which has been taken by the Germans or other enemies of the Allied Powers from a United Nations owner will be restored to that United Nations owner. The Swiss Government must
- (1) require that such property be turned over to the GEPC for appropriate distribution;
 - (2) permit and take necessary action to enable the Allied authorities in cooperation with Swiss authorities to make such investigations in Switzerland as they deem necessary to determine the existence of looted property.

6. Gold.

The Swiss must permit representatives of the Allied powers to have full access to the records of the Swiss National Bank and any other institutions in Switzerland which directly or indirectly during the war have purchased gold of German origin. Gold looted by the Germans and purchased by Swiss Government or private institutions must, where possible, be turned over to the representatives

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of the GEPC in Switzerland for restoration to the rightful owner. Where restitution of the specific gold is not possible, the Swiss Government will turn over to the GEPC an equivalent amount of the gold which it presently holds.

7. Concessions.

The agreement of the Swiss to the points set out above is a sine qua non to discussing with them certain items in which they are particularly interested. However, once satisfactory agreement on the above-mentioned points has been obtained, this Government is prepared to discuss with them the following:

- (a) The discontinuance of the Proclaimed List
 - (1) by deletion of those firms covered by the vesting decree;
 - (2) by the removal of unsatisfactory personnel in pure Swiss firms.
- (b) The unfreezing of Swiss assets in the United States on the basis of a certification procedure which will insure that Swiss and not enemy assets are freed.
- (c) Treatment to be accorded Swiss property in Germany and other matters of interest to them.

8. Sanctions.

The achievement of the wartime objectives set out in points 1 through 6 above are of such importance to the United States Government that it intends, if necessary, to impose against Switzerland the economic sanctions already proposed by this Government to the Governments of the United Kingdom and France to bring about satisfactory compliance on the part of Switzerland. It is the hope of this Government that the French and British Governments will follow a similar course.

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