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By EL NARA Date 7/8/86

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box 4206

A-E

March 25, 1946

MEMORANDUM

To: A-C - Mr. Clayton

From: Randolph Paul

At the conclusion of the first week of the negotiations, I would like to make a brief progress report. In accordance with Mr. Byrnes' letter of March 14, 1946, I am addressing this report to you.

As of March 25, we have had six meetings with the Swiss representatives. In the first meeting the opening statements were presented. This meeting was followed immediately by a meeting in which general discussion took place, during the course of which the Swiss raised certain specific questions about the vesting decree issued by the Allied Control Council and brought out certain points respecting their concept of neutrality and Swiss sovereignty. A memorandum attempting to answer some of the questions raised by the Swiss was then drafted and presented to them at the next meeting, during which some general discussion also took place. Thereafter the Swiss requested a postponement of a day, during which they drafted a memorandum containing a proposal for a so-called basic agreement which was presented to the Allied representatives at the next full session. On Friday, March 22, a further meeting with the Swiss was held, at which time the Allied reply in memorandum form was handed to them. At the next meeting, on March 25, the Swiss replied by memorandum. At that meeting, it was agreed also that three committees would be set up to look into some of the basic factual problems: looted property, including gold; Swiss claims against Germany; and procedures for elimination of German interests, for sale of properties, etc.

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IV 1/2

RG 59  
1945-1946  
box 4206

- 2 -

I am attaching hereto copies of the following documents: (1) the statements presented by the four representatives at the opening session; (2) the memorandum of the American Delegation, concurred in by the other Allied representatives, which was handed to the Swiss at the third meeting with them; (3) the Swiss memorandum of March 21; (4) the Allied memorandum of March 22, in reply to the Swiss memorandum of March 21, and (5) the Swiss memorandum of March 25.

These documents are rather lengthy. I believe they can be summarized as follows:

1. The United States opening statement emphasized the desirability of achieving an amicable settlement, underlined the security and reparations considerations, and stated that we believed that our proposals could be justified on principles of international law and equity. We stressed the fact that we had taken into consideration the question of the rights of neutrals and that we had no desire to complain of Swiss neutrality, but that we were simply attempting to mobilize German assets of all descriptions to respond to the claims of victims of German aggression.

The British and French opening statements supported this general line and reiterated the importance of the negotiations. In addition, the French opening statement referred to the problem of looted property, including gold.

2. The Swiss reply was couched in much stronger language than the opening statements of the Allied Delegations. It emphasized Swiss concepts of neutrality and sovereignty and took the occasion to defend Swiss neutrality during the war. (It may be noted that in later private conversations, members of the Swiss Delegation stated that their opening statement had been drafted in Bern and confessed that it answered charges which were not made in the Allied opening statements.)

Thereafter the Swiss raised certain questions relating to the scope of Law No. 5, to its alleged application to the property of refugees, etc. The Allied memorandum of March 19 attempted to take up seriatim the questions raised by the Swiss in these discussions and to outline answers to certain of the questions

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RG 59  
1945-1946  
box 420C

- 3 -

which they had proposed, as well as to state briefly and simply the Allied interpretation of the pertinent principles of international law.

3. The Swiss memorandum of March 21 was, in their terms, a proposal on the basis of which certain general principles might be settled, after which detailed exploration could be made in Bern. It was agreed among the Allied Delegations, however, that the Swiss proposal was, in effect, nothing more than a proposal to enable the Swiss to mobilize German property in Switzerland in order to pay Swiss, rather than Allied, claims. In effect, the Swiss took a position inconsistent with the position assumed in their opening statement. In the opening statement, they had argued that any use of German external assets would be contrary to the principles of international law; in their March 21 proposal they intimated that the international law question could be evaded or eliminated if only the property were devoted to Swiss purposes rather than to Allied purposes.

4. The Allied memorandum of March 22 pointed out that the Swiss proposal did not meet even the security needs of the situation, since it merely provided for such elimination of German holdings as Switzerland might deem desirable, made the point that the Allies had not planned these negotiations merely to assist Swiss realization on undefined Swiss claims, and pointed out that the grave ambiguities in the Swiss proposal, especially with respect to the categories of claims which would be satisfied, made it impossible to comment on the over-all significance of the proposal. It was pointed out in the Allied memorandum, however, that the Swiss proposal, in effect, converted these negotiations from a means of realizing on German assets for Allied purposes to a means of providing the Swiss with a legal basis, which they otherwise would not have, of using all German assets in Switzerland to satisfy purely Swiss claims.

The Allied memorandum of March 22, nevertheless, met one question raised by the Swiss by stating that we would agree that compensation in reichsmarks would be paid to the German owners of property in Switzerland. This is suggested by Article 5 of Law No. 5, and was strongly urged by the French. At the March 22 meeting, the Swiss also stated that their claim against Germany arising out of the German deficit in the Swiss-German clearing would be waived by Switzerland, but intimated

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RG 59  
1945-1949  
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- 4 -

that other Swiss claims would entirely exhaust whatever available funds might arise out of liquidation of the German property in Switzerland.

In later informal meetings with the Swiss, their representatives stated that the proposal was necessarily incomplete and that the subject of Swiss claims would have to be further explored and defined.

5. The Swiss memorandum of March 25 attempted to clarify some of the points in the Swiss memorandum of March 21, in which questions of interpretation had arisen. It was agreed that further informal exploration was necessary.

6. A further complication in the negotiations arose out of the fact that Mr. Stucki issued a public statement on March 22 to the effect that Switzerland would not yield German assets in Switzerland for reparation purposes. He thus squarely presented to the American press the position until now taken privately by the Swiss Delegation and made the possibility of a negotiated agreement on this subject more difficult by publicly announcing his position. This has excited considerable comment in the press.

7. At the March 25 meeting, the suggestion was made that the negotiations be broken down into separate parts, so that committees can be set up to deal with particular aspects of these negotiations. The committees mentioned above were then set up. Their first meetings are scheduled for March 26.

8. I shall keep you further informed as the negotiations proceed.

Randolph Paul  
Special Assistant to the President

5 attachments.

cc; Mr. Tyrnes

ESP: SJRubin:mky