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AIDE-MEMOIRE

The Government of Switzerland has had the honor on different occasions--the last time in its Aide-memoire of June 15, 1945 to which thus far no answer has been received--to communicate to the Allied Governments the desiderata of Switzerland concerning the proclaimed and statutory lists. Despite the fact that on September 2, 1945 the hostilities came to an end in the world, only very limited consideration has been given to these representations up to the present time.

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Switzerland feels the repercussions of the blacklisting policies all the more strongly as her territory and the number of her inhabitants are small. The effects of that situation are a cause of grave social and political concern to her Government. A few figures will show the seriousness of these problems. The Swiss firms mentioned in the black lists have paid out in the course of the past year to their employees an amount of 104 million francs in salary and social benefits. These employees and workers, together with their dependents, form a group of 41,000 persons, who are directly affected by that policy. To this number those persons must be added who have indirectly been affected. The maintenance of black lists will force a number of enterprises ever more to reduce their personnel, or even to close down completely. Thus a Swiss firm employing 350 workers was obliged to propose a bankruptcy settlement to its creditors which had to be accepted by them. An increase of cases of this nature would ruin the economy of certain towns and regions of our country, and would provoke social and political unrest.

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This danger is all the more immediate as Switzerland, because of her lack of raw materials, depends to a large degree on her foreign trade.

The freedom of trade of a neutral state in time of war is subject only to the restrictions contained in the Hague Convention of October 18, 1907 Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, and to the provisions of international maritime law.

The Swiss Government feels confident that throughout the war it has acted within the limits of the rights and duties of a neutral country and that it has strictly conformed to its engagements. It has, in particular, in accordance with Articles 7 and 9 of the above Convention, uniformly applied to all belligerents any restrictive or prohibitive measures taken with regard to the exportation and the transit of war materials. It has, moreover, required of all persons residing within its jurisdiction the strict observance of the commercial treaties concluded by Switzerland and the Allies; in particular, the Anglo-French-Swiss Agreement of April 25, 1940,--treaties which have considerably limited the freedom of trade of Switzerland.

Thus, if Switzerland herself has never violated any of the obligations incumbent upon a neutral state, neither can it be claimed that natural and juridical persons of Swiss nationality have infringed upon a rule of law by acting within the framework of Swiss legislation even if, in the eyes of the Allied authorities, they appeared guilty of having contributed through exportations to the German war effort.

The Swiss Government cannot sufficiently emphasize the fact that from summer 1940 to fall 1944, Switzerland was surrounded by territories under German or Italian control. The transport into Switzerland of raw materials indispensable for the continued

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employment of her workers, the exports towards the west, and the provisioning of the country depended in a large measure on the good will of Germany and of Italy. It must, moreover, be stressed in this connection that Switzerland during that period increased her armaments considerably, and that the raw materials for that purpose (coal, iron, etc.) could only be obtained from territory under German control.

With regard to the exportation of war materials, in particular, the Federal Council put into effect from September 2, 1939, on, the decree of April 14, 1939, relating to the maintenance of neutrality. Article 3 of that decree prohibited the exportation of arms and munitions, explosives and other war materials. It was at the urgent request of the French and British Governments that shortly after the beginning of the war the Swiss Government suspended this measure; France and Great Britain were the first ones to take advantage of it. Thus from the 1st of September, 1939, to June 30, 1940, these two countries received more than 99% of the exports of war material to France, Great Britain, and Germany. The Swiss manufacture of war materials was therefore not developed as a result of orders from Germany, but benefited Great Britain and France in fulfilling the orders placed by these two countries immediately prior to the outbreak of hostilities.

From the summer of 1940 to the fall of 1944, the exports of war materials destined to Germany registered a certain increase; but Switzerland could not on the one hand suspend the Arms Embargo in regard to one group of belligerents and maintain it with Germany.

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Article 9 of the Hague Convention of October 18, 1907 obliged her to apply impartially every measure to both belligerents. Thus Switzerland has acted also in the question of exports of war materials within the limits of her rights and duties. She is therefore at a loss to understand why Swiss firms are inserted on black lists for having exported war materials. It is maintained by the British that the Trading with the Enemy Act only applied to natural and juridical persons subject to British laws. Yet representatives of United Nations go to the extreme of threatening to place on the black list persons who contemplate establishing commercial relations in the interior of the country with firms already blacklisted. For instance, after the cessation of hostilities in the Pacific a Swiss lawyer was threatened with placement on the black list if he accepted the representation in court of a Swiss firm figuring on these lists. Such procedure is irreconcilable with the respect of the sovereignty of a state. The Allied Governments could to no greater extent, without infringing upon the sovereignty of Switzerland, favor certain Swiss firms to the detriment of those maintained on the black list.

Moreover, the Swiss Government deems it necessary to draw the attention of the Allied Governments to the fact that the preliminary inquiries with regard to the placement of Swiss persons on black lists are not always conducted with the carefulness which would seem necessary for such a grave decision. Certain firms are even today in complete ignorance of the motives for that decision, despite the steps which they themselves and the Swiss authorities have taken.

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With the end of hostilities in the Far East, the world has entered an era of peace which requires constructive economic policies appropriate to the rehabilitation of the far-reaching ravages of war. In order to obtain its objective, this policy should be able to marshal all available forces without being obstructed by the effect of the black lists.

The black lists, instruments of warfare, have today lost their reason for being. Already in times of war these lists were incompatible with the rules of international law. Today their maintenance constitutes an unjustifiable violation of these legal principles.

On the basis of these considerations, the Government of Switzerland ventures to hope that the Allied Governments, in reconsidering objectively the situation of Switzerland during the World War, will renounce for her benefit the policy of black listing.

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