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November 16, 1943

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MEMORANDUM

TO: Mr. Whitney H. Shepardson
Mr. Reginald C. Foster

FROM: Frank T. Ryan

SUBJECT: Comments on Memorandum of Proposed Understanding
between Embassy and OSS in Spain.

There are several provisions in this agreement that I wish to comment upon.

Under "Functions", in paragraph 1, the following sentence appears:

"So far as direct intelligence from Spain is concerned, SI operations will cover only such intelligence as may be requested or agreed to by the Ambassador and the Military and Naval Attaches, or be required by the Joint Chiefs of Staff with the concurrence of the State Department."

It is to be noted that a provision of this sentence requires a concurrence by the State Department of any request made of the OSS by the Joint Chiefs of Staff. This requirement, I believe, infringes on the basic principle of OSS as an intelligence organization, which, as I understand it, is to serve the Joint Chiefs of Staff as an independent gatherer of strategic information; that is to say, OSS was chartered for the purpose of securing intelligence from other than existing sources - namely, State, ONI, and G-2.

Paragraph 6 under "Functions" reads as follows:

"OSS in Spain will not become involved in any activities embarrassing to the Embassy. The decision as to what is or is not embarrassing rests with the Ambassador, who should be kept currently informed of the nature of the activities in which OSS engages or plans to engage in Spain."

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This provision fails to comprehend the nature and duties of an intelligence organization, which, by their very nature, are liable in the course of their activities to create embarrassments. The laws of a country cannot be broken without embarrassment. The Ambassador fails to declare at what point he will become "embarrassed". Sir Samuel Hoare (the British Ambassador), for example, has a very thick skin when it comes to intelligence operations, and he doesn't embarrass easily. Relatively minor happenings, which may be treated very lightly by OSS as everyday occurrences, may be embarrassing to Ambassador Hayes, thereby enabling him to invoke the provisions set forth in paragraph 6 under "Organization and Personnel", reading as follows:

"Hence in cases where the Ambassador has reason to believe that a certain individual is connected with OSS, and that his activities in Spain are likely to cause embarrassment to the Embassy, the Director of OSS in Spain will, upon the Ambassador's request, inform him whether or not the individual in question is in fact connected with OSS."

Paragraph 1 under "Organization and Personnel" reads as follows:

"OSS in Spain is coordinate with the offices of Military Attache and Naval Attache, and like them is a part of the Embassy. Just as each of these offices is under a chief whose duty it is to keep the Ambassador informed and to seek his counsel and follow his general instructions, so the Director of the OSS in Spain has a like duty."

I believe the phrase "and follow his general instructions" should be deleted. It is quite possible that the instructions which Chief of the OSS Mission in Spain may receive from time to time from Washington might be at variance with the instructions of the Ambassador, if he were authorized to issue instructions.

Paragraph 3 under "Organization and Personnel" reads as follows:

"The number of American agents now in Spain will, for the present, suffice for its SI work when the additional officer is added, together with a Finance Officer, three code clerks and four stenographers, the need for which the Embassy recognizes."

This provision should be amended to read: "The number of American agents now operating in Spain under State Department cover will, for the present, etc., etc."

Paragraph 1 under "Security" should be amended to read:

"The conduct of OSS personnel in Spain, operating under cover of State Department, should be subject to proper discipline and sanctions."

The paragraph as it now stands omits the phrase "operating under cover of State Department". The disciplining of OSS representatives under private cover will, of course, be the responsibility of the home office of OSS.

Paragraph 4 under "Coordination" reads as follows:

"OSS agents operating in or near a Consulate will deal with the principal consular officer and not with any subordinate officer or employee of that Consulate. Principal consular officers will cooperate in affording security protection for OSS personnel and documents."

This paragraph should be substantially changed, or entirely eliminated, for, as it now reads, it provides that all OSS agents, without regard to nationality, should deal only with the principal consular officer in the locality where he is operating. The intent of such a provision should be to limit the contact of the responsible American OSS agent in the consular territory to the consular officer in charge.

Paragraph 5 under "Coordination" reads as follows:

"The Ambassador has been authorized by the State Department, with the concurrence of OSS, to examine all incoming and outgoing correspondence transmitted through the Embassy. He will exercise this right to the extent he considers necessary."

This paragraph is linked to the objections raised to provisions contained in paragraph 6 under "Functions". With authority to examine operational pouch material, the Ambassador places himself in the position of knowing of the existence and perhaps the identity of "private cover" OSS representatives; and therefore the chances of his becoming embarrassed are greatly increased. The Ambassador should be in the position to disavow these private cover Americans, and this can most effectively be accomplished by his not knowing of their existence, which, in turn, can only be attained if the operational material of both incoming and outgoing pouches is deprived him.

In general, it seems apparent from the Agreement that has been submitted for ratification, that the Ambassador has succeeded in effectively shackling our Spanish Mission, so that it cannot function as an intelligence organization must function to obtain maximum results. This opinion is further strengthened by paragraph 2 under "Functions", from which I quote the following:

" . . . it should be borne in mind that the Ambassador has been authorized by Washington to give the most solemn assurances of the United States Government to the Spanish Foreign Minister that 'none of our personnel in Spain are engaged in activities which are directed against Spain'."

This provision indicates the major and fundamental difference in conception between the diplomatic manner of conducting intelligence and our OSS way. This may be further illustrated by Argus' cable message, which I quote:

"According to the Ambassador, who objects strongly to any effort by us to penetrate the foreign office, complete information on the subject of your #241 was forwarded to Department."

One of the very first objectives of a good intelligence organization is to penetrate the opposition's Government. Among our first duties would, therefore, be an effort to penetrate the Spanish Foreign Office.

To me it seems apparent that the Agreement, as drawn up, establishes such a harmless, innocuous organization that even the Germans would not object to it. If we cannot operate according to the principles of intelligence, then we might just as well abandon our efforts.

FTR:em

F. T. R.

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