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CONTROLS
C O N F I D E N T I A L

LIMITED OFFICIAL USE BRUSSELS 05326

DEPT FOR L/ECP ELY MAURER
BONN FOR LEGAL ATTACHE PROPP

E.O. 12356: N/A

TEXT

TAGS: TGC, EFIN, EEC, BE
SUBJECT: TGC-RETURN OF GOLD BARS

REF: BONN 12674 AND PREVIOUS

1. LETTER CONTAINING SUMMARY OF PRECEDENTS (REQUESTED BY U.K. COMMISSIONER), PREPARED IN L/ECP AND POUCHED TO EMBASSY BRUSSELS, WAS RECEIVED 4/13 AND CONVEYED TO U.K. COMMISSIONER 4/14 WITH COPIES TO FRENCH COMMISSIONER AND COMMISSION SECRETARY GENERAL. IN EVENT BONN DOES NOT HAVE TEXT, WE ARE TRANSMITTING IT FOR INFORMATION AND POSSIBLE USE WITH MESSRS. HILL AND DUMOND. ATTACHMENTS 1, 2, AND 3 NOTED ARE BEING POUCHED TO BONN.

2. BEGIN TEXT:

QUOTE THE AUTHORITY OF THE THREE GOVERNMENTS DERIVES FROM PART III OF THE PARIS REPARATION AGREEMENT OF JANUARY 14, 1946 AND UNANIMOUS RESOLUTION 2 OF THE FINAL ACT OF THE PARIS CONFERENCE ON REPARATION OF DECEMBER 21, 1945. FOR EASY REFERENCE WE ATTACH HERETO A COPY OF PART III AS ATTACHMENT 1 AND A COPY OF UNANIMOUS RESOLUTION 2 AS ATTACHMENT 2. WHEN THESE TWO DOCUMENTS ARE EXAMINED IT WILL BE SEEN THAT THE UNITED STATES, UNITED KINGDOM AND FRANCE WERE ENTRUSTED WITH THE RESPONSIBILITY TO RECOVER MONETARY GOLD FROM GERMANY AND FROM NEUTRAL COUNTRIES TO WHICH THE GOLD MIGHT HAVE BEEN TRANSFERRED BY THE GERMAN AUTHORITIES. THE GOLD RECOVERED WAS TO BE INCLUDED IN A POOL FROM WHICH THE CLAIMS OF COUNTRIES LOOTED OF THEIR MONETARY GOLD BY THE NAZI GOVERNMENT DURING THE WAR WERE TO BE MET.

IT WAS EARLY EVIDENT THAT THE THREE GOVERNMENTS, TO WHOM THIS TASK WAS ENTRUSTED, COULD NOT BE EFFECTIVE IN THE PURSUIT OF RECOVERY OF THE MONETARY GOLD WHICH HAD BEEN LOOTED BY THE NAZIS, UNLESS THE THREE GOVERNMENTS HAD THE POWER NOT ONLY TO RELEASE THEIR OWN CLAIMS BUT ALSO THE CLAIMS OF OTHER GOVERNMENTS PARTY TO THE PARIS REPARATION AGREEMENT, AND ALSO THE CLAIMS OF THEIR NATIONAL BANKS OF ISSUE. THIS WAS BECAUSE THE LEGAL TITLE TO THE GOLD WHICH WAS BEING RECOVERED MIGHT HAVE BEEN IN THESE OTHER GOVERNMENTS OR THE NATIONAL BANKS OF ISSUE (THESE BANKS ISSUED CURRENCY BACKED UP BY THE MONETARY GOLD THEY OWNED). OF COURSE, NO COUNTRY OR INSTITUTION COULD BE EXPECTED TO GIVE UP THE GOLD IN ITS POSSESSION WITHOUT BEING ASSURED THAT THE ORIGINAL OWNERS AND GOVERNMENTS WOULD NOT BE FREE TO SUE IN THE FUTURE WITH RESPECT TO THE GOLD THAT WAS BEING GIVEN UP. SO THE NATURAL INTERPRETATION WAS MADE OF THE TERMS OF PART III OF THE PARIS REPARATION AGREEMENT AND

UNANIMOUS RESOLUTION 2 THAT THEY EMPOWERED THE GIVING OF BROAD WAIVERS AND RELEASES ON BEHALF OF THE ORIGINAL OWNERS AND THEIR GOVERNMENTS IN RETURN FOR THE TURNOVER OF GOLD CLAIMED.

IN PURSUANCE OF THE RESPONSIBILITY ENTRUSTED TO THEM, THE THREE GOVERNMENTS ENTERED INTO SEVERAL AGREEMENTS INVOLVING THE RECOVERY OF GOLD. RELEVANT PORTIONS OF THESE AGREEMENTS ARE SET FORTH IN ATTACHMENT 3 HERETO. THESE AGREEMENTS WERE WITH THE BANK OF INTERNATIONAL SETTLEMENTS (MAY 13, 1948), SWITZERLAND (MAY 25, 1946), SWEDEN (JULY 18, 1946), AND PORTUGAL (OCTOBER 9, 1958). IT WILL BE SEEN FROM A REVIEW OF THE QUOTED 1/ TEXTS OF THESE AGREEMENTS THAT THE FORMULA USED IN SOME CASES WAS EVEN BROADER THAN THE FORMULA INVOLVED IN THE PRESENT CASE. FOR EXAMPLE, IN THE AGREEMENT WITH THE BANK OF INTERNATIONAL SETTLEMENTS THE THREE GOVERNMENTS WAIVED CLAIMS ACTING ON THEIR OWN BEHALF, ON BEHALF OF ALL OF THE OTHER GOVERNMENTS SIGNATORY TO THE PARIS REPARATION AGREEMENT AND ALSO ON BEHALF OF THE BANKS OF ISSUE OF THE SIGNATORY GOVERNMENTS. IN THE PRESENT CASE WE ARE RELEASING OR WAIVING CLAIMS WITH RESPECT TO THE TWO GOLD BARS ON BEHALF OF THE THREE GOVERNMENTS, ON BEHALF OF ALL THE OTHER GOVERNMENTS SIGNATORY TO THE PARIS REPARATION AGREEMENT AND ON BEHALF OF THE BANK OF FRANCE AND THE NATIONAL BANK OF BELGIUM. WE COULD, IF THE GERMAN AUTHORITIES HAD INSISTED, ALSO WAIVE OR RELEASE CLAIMS AGAINST THE GERMAN AUTHORITIES WITH RESPECT TO THE TWO GOLD BARS ON BEHALF OF THE OTHER BANKS OF ISSUE OF THE OTHER SIGNATORY GOVERNMENTS TO THE PARIS REPARATION AGREEMENT. THE GERMAN AUTHORITIES REQUESTED RELEASES PARTICULARLY FROM THE BANK OF FRANCE AND THE NATIONAL BANK OF BELGIUM BECAUSE THEY KNEW FROM THE DOCUMENTS WE HAD GIVEN THEM THAT THE TWO GOLD BARS CAME FROM A RESMELTING OF GOLD BARS OWNED BY THE
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NATIONAL BANK OF BELGIUM, TURNED OVER FOR CUSTODY TO THE BANK OF FRANCE, AND THEN TURNED OVER BY THE BANK OF FRANCE TO THE NAZIS.

IN SUM, WE BELIEVE THERE IS NO QUESTION ABOUT THE AUTHORITY OF THE THREE GOVERNMENTS TO FURNISH THE RELEASE REQUESTED BY THE GERMAN AUTHORITIES.

1/ THESE TEXTS ARE COPIES OF DOCUMENTS IN OUR TREATY SERIES; THE UNITED KINGDOM COMMISSIONER WILL DOUBTLESS FIND THE IDENTICAL TEXTS IN THE BRITISH

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TREATY SERIES."

ATTACHMENTS: 1, 2, AND 3. UNQUOTE.
SWAEBE

ADMIN
END OF MESSAGE

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