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TEXT

TAGS: PREL EFIN KGCN FR US UK

SUBJECT: TRIPARTITE GOLD COMMISSION -- FOIA REQUEST

REF: (A) 82 BRUSSELS 15919, (B) 83 BRUSSELS 3449,

(C) 85 BRUSSELS 8866, (D) 88 STATE 71598, (E) 88 BRUSSELS 8333

1. CLASSIFIED BY ELY MAURER, ASSISTANT LEGAL ADVISER FOR EDUCATIONAL, CULTURAL AND PUBLIC AFFAIRS. REASON 1.5(B) AND (D).

2. SUMMARY AND ACTION REQUEST: IN LIGHT OF A PENDING FREEDOM OF INFORMATION ACT REQUEST, U.S. COMMISSIONER TO THE TRIPARTITE GOLD COMMISSION IS REQUESTED TO POLL OTHER TGC MEMBERS TO CONFIRM THAT THEY CONTINUE TO OPPOSE THE RELEASE OF TGC DOCUMENTS. END SUMMARY AND ACTION REQUEST.

3. THE DEPTS OF STATE AND TREASURY HAVE EACH RECEIVED A FOIA REQUEST FOR DOCUMENTS RELATING TO THE 1982 CZECH GOLD DISTRIBUTION. A U.S. CITIZEN HAS REQUESTED THE USG TO RELEASE THE "CZECH GOLD INVENTORY LIST" AS WELL AS "THE NAMES OF THOSE PERSONS WHO HAD HANDLED AND SIGNED FOR THE GOLD SHIPMENT" AND "A LIST OF THE NAMES OF THOSE IN CHARGE OF RECEIVING THE GOLD AT ITS DESTINATION IN PRAGUE." BOTH TREASURY AND STATE HAVE IDENTIFIED DOCUMENTS IN THEIR FILES THAT MAY RESPOND TO THIS REQUEST.

4. ACCESS TO SOME OF THIS INFORMATION HAS BEEN AN ISSUE ON TWO PRIOR OCCASIONS INVOLVING REQUESTS BY THE SAME INDIVIDUAL MAKING THE CURRENT REQUEST (A FORMER CZECH CITIZEN WHO, AS INDICATED, IS NOW A U.S. CITIZEN). HE HAS ALLEGED THAT THE NAZIS SEIZED HIS FAMILY'S GOLD IN MARCH OF 1939, THAT THIS GOLD WAS RECOVERED BY THE ALLIES, AND THAT THE USG, THROUGH THE TGC, WRONGFULLY TRANSFERRED THIS GOLD TO CZECHOSLOVAKIA IN 1982.

5. IN THE FIRST CASE, A FREEDOM OF INFORMATION ACT REQUEST BROUGHT BY THIS INDIVIDUAL IN 1982 FOR THE SAME GOLD INVENTORY PROMPTED THE USG TO SEEK THE VIEWS OF THE MEMBERS OF THE TRIPARTITE COMMISSION ON ITS DISCLOSURE. THOSE GOVERNMENTS, AS WELL AS THE TGC SECRETARY GENERAL, STRONGLY OBJECTED TO THE RELEASE OF SUCH DOCUMENTS. THEY TOOK THE POSITION THAT TGC PROCEEDINGS ARE CONFIDENTIAL AND THAT THE FREEDOM OF INFORMATION ACT COULD NOT APPLY TO TGC DOCUMENTS, WHICH ARE HELD IN COMMON BY THE THREE GOVERNMENTS (REFS A AND B). AS A RESULT, THE DEPT DETERMINED THAT THE DOCUMENTS WERE PROTECTED AND REJECTED THE REQUEST. (WE UNDERSTAND THAT THE FEDERAL RESERVE BANK OF NEW YORK GOT UP THE INVENTORY AND SENT IT TO THE TGC UNCLASSIFIED. AFTER IT ARRIVED AT THE TGC, IT WAS MARKED CONFIDENTIAL. IT APPEARS THAT THE SAME ISSUE AROSE AGAIN IN 1985 IN THE CONTEXT OF ANOTHER FOIA CASE (REF C), AND UPON ADVICE OF POST, THE DOCUMENTS WERE DENIED WITHOUT REPOLLING THE BRITISH AND FRENCH GOVERNMENTS.)

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6. IN THE MOST RECENT CASE, THE CITIZEN SOUGHT RELEASE OF THE GOLD INVENTORY IN 1988 IN CONNECTION WITH HIS LAWSUIT AGAINST THE USG IN THE US CLAIMS COURT. IN CONNECTION WITH THAT LITIGATION, THE USG AGAIN POLLED THE COMMISSION MEMBERS FOR THEIR VIEWS ON RELEASING THE INVENTORY LIST (REF D). ONCE AGAIN, BOTH THE BRITISH AND FRENCH GOVERNMENTS OBJECTED (REF E), AND THE US DID NOT RELEASE THE INVENTORY. THE FEDERAL JUDGE IN THE CASE CONDUCTED AN IN CAMERA REVIEW OF THE INVENTORY IN ORDER TO RESPOND TO SPECIFIC QUESTIONS RAISED BY THE CITIZEN. THE JUDGE DETERMINED THAT THE DOCUMENTS DID NOT BENEFIT THE CITIZEN'S CASE, AND HIS COMPLAINT WAS THEN DISMISSED IN 1992 ON VARIOUS LEGAL GROUNDS.

7. IN LIGHT OF THE RENEWED FOIA REQUEST (WHICH ASKS FOR THE NAMES OF INDIVIDUALS INVOLVED IN THE CZECH TRANSACTION IN ADDITION TO THE GOLD INVENTORY LIST), DEPT ASKS U.S. COMMISSIONER TO RAISE THE MATTER AGAIN WITH U.K. AND FRENCH COMMISSIONERS TO CONFIRM THAT THEIR GOVERNMENTS CONTINUE TO OBJECT TO THE PUBLIC RELEASE OF THE INVENTORY AND OTHER DOCUMENTS CONCERNING TGC PROCEEDINGS.

8. PLEASE SLUG RESPONSE FOR L/ECP, L/EUR, L/LM, L/CID, AND TREASURY.
CHRISTOPHER

ADMIN
END OF MESSAGE

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