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NAZI WAR CRIMES DISCLOSURE ACT

CONTROLS  
C O N F I D E N T I A L BERN 000001

DEPT FOR E U/S EIZENSTAT

DEPT ALSO FOR EUR/DAS WAYNE AND EUR/AGS (VAN HEUVEN)

TREASURY FOR IM (MCFADDEN)

USIA FOR WEU

E.O. 12958: DECL: 11/17/07

TEXT

TAGS: KNAR, PREL, EFIN, PGOV, SZ  
COMBINE: COMPLETE

SUBJECT: U/S EIZENSTAT'S NOVEMBER 15 VISIT TO BERN

1. CLASSIFIED BY AMBASSADOR MADELEINE MAY KUNIN. REASON: 1.5 (B) AND (D).

SUMMARY

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2. (C) IN CONNECTION WITH THE SECRETARY'S NOVEMBER 15 VISIT TO BERN, U/S EIZENSTAT MET SEPARATELY WITH PARLIAMENTARIANS AND OTHER KEY FIGURES, AND HELD BILATERAL DISCUSSIONS WITH SWISS OFFICIALS. WHILE PRAISING SWISS ACTIONS, AMBASSADOR EIZENSTAT DESCRIBED THE NAZI GOLD ISSUE AS BEING IN A "TRANSITION PHASE" AND HE ENCOURAGED THE SWISS TO STAY THE COURSE. HE ALSO URGED OFFICIALS TO BEGIN TO WORK WITH THE U.S. ON AN ACTION PLAN AND TIMETABLE FOR REACHING CLOSURE. WHILE CLEARLY HESITANT ABOUT DIRECT INVOLVEMENT IN THIS PROCESS, SWISS OFFICIALS BEGAN TO DISCUSS KEY ELEMENTS OF A CLOSURE PACKAGE. END SUMMARY.

WORKING LUNCHEON WITH SWISS PARLIAMENTARIANS

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3. (C) IN A LUNCHEON HOSTED BY AMBASSADOR KUNIN, U/S EIZENSTAT OUTLINED THE OBJECTIVES OF THE SECRETARY'S VISIT TO BERN AND DISCUSSED NEXT STEPS ON THE NAZI GOLD/HOLOCAUST-ERA ASSETS ISSUE. SWISS PARTICIPANTS INCLUDED THE PRESIDENT OF THE NATIONAL COUNCIL, JUDITH STAMM, NATIONAL COUNCIL MEMBERS LILI NABHOLZ AND FRANCOIS LOEB, COUNCIL OF STATES MEMBER GIAN-RETO PLATTNER, "SPECIAL FUND" HEAD DR. ROLF BLOCH, THE VICE PRESIDENT OF THE SWISS NATIONAL BANK, JEAN-PIERRE ROTH, AND THE CEO OF THE UNION BANK OF SWITZERLAND, MATHIAS CABIALAVETTA. U.S. PARTICIPANTS INCLUDED CONGRESSMAN ROBERT WEXLER, E SENIOR ADVISOR BENNETT FREEMAN, EUR/AGS DIRECTOR RUTH VAN HEUVEN AND EMBASSY POL/ECON COUNSELOR DANIEL SMITH.

BILATERAL RELATIONS

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4. (C) U/S EIZENSTAT UNDERSCORED THE PURPOSE OF THE SECRETARY'S VISIT--TO CONVEY TO SWISS LEADERS AND THE SWISS PUBLIC THAT THE ISSUE OF NAZI GOLD IS NOT THE DEFINING ELEMENT IN OUR BILATERAL RELATIONSHIP. INDEED, THE U.S. HAS ENORMOUS INTERESTS AT STAKE IN THIS RELATIONSHIP, NOT LEAST IN THE ECONOMIC SPHERE WHERE, DESPITE DISCREPANCIES IN THE SIZE OF OUR TWO COUNTRIES, SWITZERLAND LOOMS LARGE IN TERMS OF TRADE AND INVESTMENT. POLITICALLY, THE RELATIONSHIP IS ALSO INCREASINGLY SIGNIFICANT AS HIGHLIGHTED BY OUR COOPERATION IN A NUMBER OF AREAS. IT IS THUS IMPORTANT NOT TO LET THE ENTIRE RELATIONSHIP BE DEFINED BY THIS PARTICULAR ISSUE, WHICH WILL EVENTUALLY GO AWAY IF PROPERLY HANDLED FOR THE BENEFIT OF HOLOCAUST VICTIMS.

NAZI GOLD ISSUE

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5. (C) PRAISING SWISS ACTIONS IN RESPONSE TO THE ISSUE OF NAZI GOLD/HOLOCAUST-ERA ASSETS, U/S EIZENSTAT STRESSED THE ADMINISTRATION'S EFFORTS TO CONVEY THIS POSITIVE ASSESSMENT TO AMERICAN STATE AND LOCAL OFFICIALS. "WE ARE BEING PRO-ACTIVE," HE DECLARED. HE URGED SWISS BANKS TO DO THE SAME, NOTING THE IMPORTANCE OF SENDING SENIOR REPRESENTATIVES TO THE DECEMBER 8 MEETING IN NEW YORK CITY BEING ORGANIZED BY COMPTROLLER HEVESI.

6. (C) WHILE THE SWISS HAVE TAKEN THE LEAD AMONG THE FORMER NEUTRAL NATIONS, WE MUST RECOGNIZE THAT THIS ISSUE IS NOT YET OVER. ENCOURAGING THE SWISS TO STAY ON COURSE, AMBASSADOR EIZENSTAT PROVIDED A TOUR D'HORIZON OF OUTSTANDING ISSUES AND UPCOMING EVENTS:

--THE SECOND U.S. "NEUTRALS" REPORT WILL FOCUS MORE ON THE OTHER NEUTRAL NATIONS (ARGENTINA, PORTUGAL, SPAIN, TURKEY AND SWEDEN), BUT WILL ALSO REFER TO SWITZERLAND BECAUSE OF ITS ROLE IN FINANCIAL TRANSACTIONS. IN TERMS OF THE HISTORICAL WORK, IT WOULD HELP SIGNIFICANTLY IF THE BERGIER HISTORICAL COMMISSION COULD PROCEED MORE EXPEDITIOUSLY;

--THE DELAYS WITH THE "SPECIAL FUND" FOR HOLOCAUST VICTIMS HAVE BEEN FRUSTRATING, BUT WE APPRECIATE THAT THE PROBLEMS HAVE NOT BEEN SIGNIFICANTLY ON THE SWISS SIDE. WHEN PAYMENTS BEGIN NEXT WEEK, IT WILL DEFINITELY HELP TO "PUT MONEY WITH A FACE" AND ASSIST MANY PEOPLE IN NEED;

--WE WANT TO AVOID "SWISS BASHING" AT THE LONDON CONFERENCE IN DECEMBER, AND HAVE WORKED WITH THE BRITISH TOWARD THIS END. WE CANNOT, OF COURSE, CONTROL WHAT GROUPS SAY AT THE CONFERENCE OR ON THE FRINGES OF THE CONFERENCE, BUT WE ARE DETERMINED TO MAKE THE EVENT AS NON-POLEMICAL AND HISTORICAL AS POSSIBLE. ALTHOUGH SOME HAVE RESISTED OUR EFFORTS, WE HAVE ENCOURAGED A BROADENING OF THE AGENDA AT LONDON TO INCLUDE OTHER ASSETS, AND AT LEAST ONE SESSION WILL BE DEVOTED TO INSURANCE COMPANIES AND STOLEN ART. WE ARE ALSO CONSIDERING A POSSIBLE FOLLOW-UP CONFERENCE FOCUSING ON ART TREASURES AND INSURANCE POLICIES;

--U/S EIZENSTAT HAS SPOKEN TWICE TO CALIFORNIA STATE TREASURER FONG AND WRITTEN HIM ONCE TO URGE THAT HE DROP THE MORATORIUM AGAINST SWISS BANKS. ALTHOUGH HE COULD NOT SPEAK FOR FONG, AMBASSADOR EIZENSTAT NOTED THAT THE CALIFORNIA OFFICIAL SEEMED SYMPATHETIC AND THAT WE HOPE TO SEE A POSITIVE RESPONSE SOON;

--WE ARE TRYING TO BRING TO A CLOSE THE OPERATIONS OF THE TRIPARTITE GOLD COMMISSION AND HAVE ENCOURAGED THE TEN CLAIMANT COUNTRIES TO CONTRIBUTE ALL OR A SUBSTANTIAL PORTION OF THE REMAINING GOLD TO A SEPARATE FUND FOR HOLOCAUST SURVIVORS. THIS PROPOSAL RECOGNIZES THE FACT THAT THE CLAIMANTS HAVE RECEIVED NEARLY 65 PERCENT OF THEIR CLAIMS, AND THAT THERE IS EVIDENCE THAT VICTIMS' GOLD WAS MIXED WITH MONETARY GOLD. THE MATTER HAS NOT BEEN SETTLED, BUT WE HOPE THAT IT CAN BE RESOLVED IN TIME FOR LONDON;

--WE ARE CONCERNED OVER THE CLASS ACTION LAWSUITS AGAINST SWISS BANKS, AND ARE PREPARED AT AN APPROPRIATE TIME TO HELP FACILITATE A

SETTLEMENT. IT IS NOT IN ANYONE'S INTEREST TO DRAG THIS PROCESS OUT. THE JUST SETTLEMENT OF THE LAWSUITS WILL BE A KEY ELEMENT IN ACHIEVING "CLOSURE."

THE "SPECIAL FUND" BEGINS DISTRIBUTIONS  
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7. (C) DR. BLOCH PROVIDED AN UPDATE ON THE OPERATIONS OF THE SWISS "SPECIAL FUND" FOR NEEDY HOLOCAUST VICTIMS, NOTING THAT THE FIRST DISTRIBUTIONS WILL BE MADE NEXT WEEK IN LATVIA. HE HINTED AT DIFFERENCES WITH THE WORLD JEWISH RESTITUTION ORGANIZATION OVER HOW TO PROCEED, SUGGESTING THAT THE SWISS PREFER A "STEP-BY-STEP" APPROACH AS OPPOSED TO A "ONE-SHOT" DISTRIBUTION. THE DANGER OF A SINGLE DISTRIBUTION IS THAT THE SWISS PUBLIC SIMPLY CONCLUDES THE ISSUE IS OVER AND THE COUNTRY HAS DONE ALL IT NEEDS TO DO. IN ADDITION, BLOCH NOTED, THE SWISS GOVERNMENT INSISTS UPON STRICT CONTROLS OVER THE DISTRIBUTIONS FROM THE FUND TO ENSURE THAT THE MONEY IS NOT MISSPENT.

8. (C) BLOCH EXPRESSED HOPE THAT THE DISTRIBUTIONS WILL CLEAR THE WAY FOR RESTORING THE "DIALOGUE" BETWEEN THE SWISS AND THE JEWS, JUST AS THE SECRETARY'S VISIT WILL HELP "BRIDGE" THE GAP BETWEEN THE U.S. AND SWITZERLAND THAT OPENED FOLLOWING THE "FRANK" EIZENSTAT REPORT. SWISS JEWS, HE ADDED, ARE THE MOST "ACCESIBLE" FOR THOSE WHO ARE LOOKING FOR SOMEONE TO BLAME. IT IS IMPORTANT THAT WE WORK TO PUT AN END TO THE GROWING "ESTRANGEMENT" BETWEEN SWITZERLAND AND THE JEWS.

FOLLOW-UP TO THE LONDON CONFERENCE  
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9. (C) ASKED ABOUT THE FOLLOW-UP TO THE LONDON CONFERENCE, AMBASSADOR EIZENSTAT NOTED THAT THE MEETING WOULD LIKELY INCLUDE A CHAIRMAN'S REPORT SUMMARIZING THE PRESENTATIONS. LONDON IS NOT A POLICY CONFERENCE, AND THE CHAIRMAN'S REPORT WILL NOT MAKE POLICY RECOMMENDATIONS. AMBASSADOR EIZENSTAT AND SENIOR ADVISOR FREEMAN, HOWEVER, NOTED THAT THE CONFERENCE WILL LIKELY ENCOURAGE ALL COUNTRIES TO OPEN THEIR ARCHIVES AND DECLASSIFY RELEVANT MATERIAL. THE 6 NGO PARTICIPANTS WILL ADDRESS THE ISSUE OF COMPENSATION FOR SURVIVORS, BUT THE FOCUS IN THIS RESPECT WILL BE MORE ON GERMANY. WITH RESPECT TO THE SECOND U.S. "NEUTRALS" REPORT, U/S EIZENSTAT FURTHER NOTED THAT WHILE IT WILL LIKELY NOT BE READY IN TIME FOR LONDON, IT WILL BE POSSIBLE TO MAKE GENERAL COMMENTS BASED ON THE ADDITIONAL RESEARCH.

SWISS "SHELL-SHOCKED" AND NEED TIME  
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10. (C) UBS CEO CABIALAVETTA EXPRESSED HIS GRATITUDE FOR U.S. HELP IN OPPOSING STATE AND LOCAL BOYCOTTS. THE WHOLE ISSUE OF NAZI GOLD/HOLOCAUST-ERA ASSETS HAS LEFT THE SWISS PEOPLE "SHELL-SHOCKED." ADMITTING THAT THE SWISS HAD ONLY ACTED UNDER PRESSURE, HE INSISTED THAT THE COUNTRY NEEDS TIME NOW FOR THINGS TO QUIET DOWN IN ORDER TO REGAIN A SENSE OF CONFIDENCE IN THE PROCESS. SOME CIRCLES IN THE U.S. NEED TO APPRECIATE THIS FACT. WHILE ACKNOWLEDGING THAT THE BERGIER COMMISSION MUST BE TOLD TO SPEED UP, CABIALAVETTA STRESSED THAT THE PREPARATIONS FOR THE SOLIDARITY FOUNDATION MUST BE HANDLED CAREFULLY IN THIS DIRECT DEMOCRACY. TOWARD THIS END, HE APPEALED AGAIN FOR U.S. HELP IN ENSURING THAT

THE SWISS ARE NOT ALWAYS UNDER PRESSURE.

11. (C) NATIONAL COUNCILOR LOEB AND DR. BLOCH ECHOED THESE REMARKS. WHAT PUZZLES THE SWISS, LOEB OBSERVED, IS WHAT THEY CAN DO TO GAIN RECOGNITION FOR THEIR POSITIVE STEPS. THESE ARE OFTEN ACKNOWLEDGED BY THE U.S. GOVERNMENT, BUT NOT BY THE AMERICAN PUBLIC AT LARGE. DR. BLOCH ADDED THAT THERE IS GENERAL CONFUSION, NOT ONLY IN THE U.S. BUT ALSO IN SWITZERLAND. PEOPLE DO NOT UNDERSTAND WHAT HAS BEEN DONE AND OFTEN "MIX-UP" VARIOUS ELEMENTS. IN THE U.S., MOREOVER, TOO OFTEN SWISS EFFORTS ARE AUTOMATICALLY "DEMEANED."

CONGRESSMAN WEXLER OFFERS HELP  
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12. (C) POINTING TO THE NEED TO MOVE BEYOND THE ANGER AND ANGUISH ON EACH SIDE, CONGRESSMAN WEXLER OFFERED TO HELP THE PROCESS OF RECOVERY AND HEALING. NOTING THAT HE REPRESENTS THE CONGRESSIONAL DISTRICT IN THE U.S. WITH PROBABLY THE HIGHEST NUMBER OF HOLOCAUST SURVIVORS, HE INDICATED THAT MANY OF THEM ARE "VERY CONFUSED" BY WHAT HAS HAPPENED, NOT KNOWING WHAT AFFECTS THEM OR TO WHOM THEY SHOULD TURN FOR ASSISTANCE. HE SUBSEQUENTLY SUGGESTED THE IDEA OF A CONGRESSIONAL RESOLUTION FOCUSING ON THE POSITIVE THINGS SWITZERLAND HAS DONE. THE CONGRESSMAN INDICATED HE WOULD LOOK FOR CO-SPONSORS OF SUCH A RESOLUTION WHICH COULD THEN BE DISSEMINATED TO THE BROADER JEWISH COMMUNITY IN THE U.S. AMBASSADOR EIZENSTAT WELCOMED THIS IDEA, NOTING AS WELL THE PROPOSAL IN CONGRESS TO MAKE A 25-MILLION-DOLLAR CONTRIBUTION TO THE FUND FOR HOLOCAUST SURVIVORS TO BE CREATED BY TGC CLAIMANT COUNTRIES.

TRANSITION PERIOD  
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13. (C) WE WILL ALL BE JUDGED ULTIMATELY NOT BY WHAT HAPPENED FIFTY YEARS AGO, AMBASSADOR EIZENSTAT UNDERSCORED, BUT BY WHAT WE DO TODAY. IN THE PROCESS OF COMING TO GRIPS WITH ITS PAST, SWITZERLAND SHOULD KNOW THAT IT HAS A FRIEND IN THE U.S. THE SECRETARY'S PUBLIC STATEMENT IN BERN WAS AN EFFORT TO GET THE WORD OUT ON WHAT SWITZERLAND AND THE SWISS ARE DOING. TO SOME EXTENT, HOWEVER, WE ARE NOW IN A "TRANSITION PERIOD," WHICH IS OFTEN THE MOST DIFFICULT. WHEN THE VOLCKER COMMITTEE MAKES ITS REPORT AND WHEN PAUL VOLCKER PUTS HIS STAMP OF APPROVAL ON THAT REPORT, IT WILL HAVE A "CLEANSING EFFECT." AMBASSADOR KUNIN ADDED THAT THE FIRST PAYMENTS FROM THE "SPECIAL FUND" SHOULD ALSO HIGHLIGHT, IN A TANGIBLE WAY, THE CONTRIBUTIONS SWITZERLAND HAS MADE. U/S EIZENSTAT AGREED, SUGGESTING IT WAS PERHAPS BETTER IN THIS RESPECT NOT TO MAKE A LUMP-SUM PAYMENT IN ORDER TO HAVE A GOOD STORY EVERY FEW MONTHS.

14. (C) COUNCIL OF STATES MEMBER PLATTNER UNDERSCORED THAT THE SPECIAL FUND IS NOT THE ONLY SWISS FUND HELPING HOLOCAUST VICTIMS. HIS GRASSROOTS FUND FOR HUMANITY AND JUSTICE HAS BEEN MAKING DIRECT PAYMENTS TO VICTIMS IN A MUCH MORE FLEXIBLE AND LESS BUREAUCRATIC MANNER. HIS FUND IS FREE, FOR INSTANCE, TO MAKE LARGER DISTRIBUTIONS TO FEWER INDIVIDUALS. THE OVERHEAD FOR THE FUND HAS BEEN PAID FOR BY ORGANIZATIONS, BUT INDIVIDUAL DONATIONS GO ONLY TO BENEFIT VICTIMS. AMBASSADOR EIZENSTAT APPLAUDED THESE EFFORTS AND

INDICATED THAT HE WOULD APPRECIATE MORE DETAILED INFORMATION ON PLATTNER'S FUND BEFORE HIS APPEARANCE IN NEW YORK ON DECEMBER 8.

CLASS-ACTION LAWSUITS

15. (C) IN TERMS OF ACHIEVING "CLOSURE," CABIALAVETTA RAISED THE CLASS ACTION LAWSUIT. MANY PEOPLE WITHIN THE JEWISH COMMUNITY INSIST THAT THEY CAN "DELIVER" A SETTLEMENT, BUT NOTHING HAS HAPPENED THUS FAR. IN HIS OPINION, IT WILL REQUIRE THE INVOLVEMENT OF THE U.S., SWISS AND ISRAELI GOVERNMENTS TO BRING THIS ABOUT.

16. (C) U/S EIZENSTAT INDICATED THAT HE HAD SPENT A GREAT DEAL OF TIME ON THIS ISSUE. EARLIER IN THE WEEK, HE MET WITH LAWYERS FROM THE JUSTICE AND STATE DEPARTMENTS TO EXAMINE WHAT CAN BE DONE. WE NEED TO FIND THE APPROPRIATE TIME TO PLAY A MORE ACTIVE ROLE. HE STRESSED, MOREOVER, THAT THE JUDGE'S DECISION CERTIFYING THAT THE CLASS IS SATISFIED BY A SETTLEMENT WILL BRING ABOUT A LEGAL CLOSURE.

SWISS GOVERNMENT VS. THE BANKS

17. (C) NATIONAL COUNCIL PRESIDENT STAMM SAID THAT SHE HAS BEEN TRYING TO EXPEDITE THE WORK OF THE BERGIER COMMISSON, STRESSING THAT WHILE THEY ARE INDEPENDENT IN TERMS OF THE CONTENT OF THEIR REPORT THEY DO NOT HAVE THE POWER TO SET THEIR OWN TIMETABLE. WITH RESPECT TO DELAYS, HOWEVER, SHE ADDED THAT IT WAS REALLY THE BANKS WHO HAD TAKEN THEIR TIME. THE REMARK BROUGHT AN IMMEDIATE RESPONSE FROM CABIALAVETTA, WHO INSISTED THAT HE HAD ONLY BEEN INVOLVED WITH THE ISSUE FOR ABOUT A YEAR. THE SWISS PARLIAMENT, HE ACKNOWLEDGED, HAD SHOWN GREAT LEADERSHIP ON THIS ISSUE, BUT THE FEDERAL COUNCIL HAD NOT. THE BANKS HAD MADE MISTAKES IN THE PAST, BUT THEY ARE NOW WORKING "DAY AND NIGHT" TO RESOLVE THE PROBLEM. THE GOVERNMENT, THOUGH, SHOULD CONTRIBUTE MORE DIRECTLY TO A SOLUTION. STAMM TOOK EXCEPTION TO THIS, SAYING THAT THIS IS NOT A MATTER FOR SWISS TAXPAYERS.

18. (C) U/S EIZENSTAT BROUGHT THIS DEBATE TO A CLOSE, REITERATING U.S. APPRECIATION FOR THE EXTRAORDINARY EFFORTS SWITZERLAND HAS MADE TO COME TO GRIPS WITH ITS PAST AND ADDRESS THE FUTURE. FROM THE AMERICAN PERSPECTIVE, THE SWISS HAVE SHOWN COURAGE AND AN APPROPRIATE SENSE OF URGENCY. THE ISSUE HAS PERHAPS SPARKED AN INTERNAL DEBATE IN SWITZERLAND, BUT OUR GOAL NOW MUST BE TO GET THE WORD OUT ON WHAT THE SWISS ARE DOING. INDEED, THE SWISS ARE "LIGHT YEARS AHEAD" OF MANY OTHER COUNTRIES. HE ENCOURAGED THOSE PRESENT NOT TO LOSE FAITH DURING THIS TRANSITION PERIOD, BUT RATHER TO STAY ON THE PATH THEY HAVE CHOSEN. IT IS OUR PRIVILEGE, HE NOTED, TO BE YOUR FRIENDS IN THIS PROCESS.

MEETINGS WITH SWISS OFFICIALS

19. (C) IN TWO SEPARATE MEETINGS WITH SWISS OFFICIALS, INCLUDING FOREIGN MINISTER COTTI AND AMBASSADOR THOMAS BORER, U/S EIZENSTAT UNDERSCORED MANY OF THE SAME POINTS HE MADE DURING THE LUNCHEON. IN PARTICULAR, HE CALLED ATTENTION TO THE IMPORTANCE OF THE SECRETARY'S VISIT AND OUR DESIRE TO SEND A CLEAR SIGNAL THAT WHILE

TENSIONS HAVE ARISEN OVER THIS ISSUE, OUR UNDERLYING RELATIONSHIP REMAINS STRONG AND WILL ALLOW US TO RESOLVE OUR DIFFERENCES. WE APPRECIATE, MOREOVER, THE COURAGE AND SPEED WITH WHICH SWITZERLAND HAS ACTED.

NEW YORK MEETING  
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20. (C) WITH RESPECT TO UPCOMING EVENTS, AMBASSADOR EIZENSTAT ENCOURAGED THE SWISS TO SEND OFFICIAL REPRESENTATIVES FROM WASHINGTON AND BERN TO THE HEVESI MEETING IN DECEMBER, AND ALSO UNDERScoreD THE NEED FOR THE BIG THREE BANKS TO BE WELL-REPRESENTED THERE. THE MEETING, HE ARGUED, COULD PROVIDE A CHANCE TO "BREAK THE FEVER" ON THE SANCTIONS MOVEMENT AND MAKE THE BEST POSSIBLE CASE FOR SWITZERLAND. COTTI TOOK CAREFUL NOTE OF THIS AND SAID THAT HE SAW NO PROBLEM WITH THE RESPECT TO SWISS PARTICIPATION IN THE EVENT. BORER, HOWEVER, SUBSEQUENTLY COMPLAINED ABOUT THE FOCUS OF THE HEVESI CONFERENCE, ASKING WHY THE BROADER ISSUES OF DORMANT ACCOUNTS IN ISRAEL OR BRITAIN WERE NOT INCLUDED ON THE AGENDA. AMBASSADOR EIZENSTAT SAID THAT HE HAD NOT SEEN AN AGENDA, BUT REMINDED THE SWISS THAT THE SANCTIONS HAVE BEEN DIRECTED AT SWISS BANKS AND IT WAS THUS LOGICAL THE CONFERENCE WOULD FOCUS ON THIS SUBJECT. HE NOTED, MOREOVER, THAT HE PLANNED TO MAKE A BROAD STATEMENT WHICH FOCUSED ALSO ON QUESTIONS OF WTO CONSISTENCY AND THE ABILITY OF THE UNITED STATES TO SPEAK WITH ONE VOICE IN FOREIGN POLICY.

SECOND U.S. "NEUTRALS REPORT"  
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21. (C) AS WE LOOK TO THE FUTURE, AMBASSADOR EIZENSTAT CAUTIONED, WE MUST ALSO CONTINUE TO LOOK TO THE PAST AND THIS WILL PERIODICALLY BROIL THE WATERS. THE SECOND U.S. "NEUTRALS" REPORT, FOR INSTANCE, WILL NOT FOCUS ON SWITZERLAND, BUT ITS ROLE WILL BE DISCUSSED IN A "LOW-KEY AND FACTUAL MANNER." WE WILL TRY TO MANAGE THE PUBLIC EMPHASIS ON SWITZERLAND. UNFORTUNATELY, THE REPORT WILL LIKELY NOT BE READY IN TIME FOR LONDON.

LONDON CONFERENCE  
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22. (C) BORER INDICATED IN CONFIDENCE THAT THE FIRST BERGIER COMMISSION REPORT WILL ALSO NOT BE RELEASED BEFORE LONDON. THE COMMISSION HAD JUST RECEIVED ACCESS TO RUSSIAN ARCHIVES AND THE REPORT WILL THUS NOT BE COMPLETE UNTIL JANUARY. INSTEAD, A 30-PAGE SUMMARY OF THE REPORT IN ENGLISH WILL BE AVAILABLE. BORER'S REAL CONCERN, HOWEVER, WAS WHETHER LONDON WILL REPRESENT A TRUE SHARING OF FACTS OR A POLITICAL DEBATE. HE EXPRESSED HOPE, FOR INSTANCE, THAT THE U.S. WOULD NOT SIMPLY RAISE QUESTIONS ABOUT THE GOLD TRADE WITH NAZI GERMANY BUT FOCUS AS WELL ON THE UNDERLYING COMMERCIAL TRANSACTIONS WITH THE OTHER NEUTRAL NATIONS THAT THE GOLD TRADE FINANCED. HE ALSO URGED THE U.S. TO AVOID "A FEW KEY SENTENCES" THAT HAD BEEN CONTAINED IN THE FOREWORD TO THE FIRST U.S. REPORT.

23. (C) U/S EIZENSTAT REITERATED THAT LONDON IS AN OPPORTUNITY PRIMARILY FOR SHARING INFORMATION. WHILE WE HOPE TO ANNOUNCE AGREEMENT ON THE CREATION OF A FUND OUT OF THE REMAINING GOLD IN THE TRIPARTITE GOLD POOL, WE WILL NOT BE MAKING ADDITIONAL SPECIFIC

RECOMMENDATIONS. WHILE WE HAD NOT BEEN FULLY SUCCESSFUL IN BROADENING THE SCOPE OF THE CONFERENCE, THE LAST SESSION WILL INCLUDE DISCUSSION OF OTHER ASSETS. IN ADDITION, WE ARE CONSIDERING ANOTHER CONFERENCE NEXT YEAR ON THIS TOPIC PERHAPS SPONSORED BY THE HOLOCAUST MEMORIAL MUSEUM IN WASHINGTON.

CLASS ACTION LAWSUITS  
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24. (C) U/S EIZENSTAT REPORTED THAT THE U.S. HAD BEEN TAKING A CLOSER LOOK AT THE CLASS ACTION LAWSUIT IN THE LAST FEW WEEKS. THERE SEEMS TO BE A GROWING FEELING ON THE PART OF JEWISH GROUPS THAT THE TIME IS RIPE TO RESOLVE THIS MATTER. THE U.S. GOVERNMENT RECOGNIZES THAT IT HAS A ROLE TO PLAY IN THIS PROCESS, BUT WE MUST DETERMINE UNDER WHAT CIRCUMSTANCES AND WHEN WE CAN BE MOST EFFECTIVE. AMBASSADOR EIZENSTAT NOTED THAT OUR INITIAL SENSE HAD BEEN THAT THE PARTIES WERE TOO FAR APART AND THAT INVOLVEMENT WOULD BE LIKE WALKING INTO QUICKSAND. OUR HOPE HAD BEEN THAT THE JUDGE'S INITIAL RULING WOULD SERVE AS A "REALITY CHECK," BUT THIS HAD UNFORTUNATELY BEEN DELAYED. SOME IN THE JEWISH COMMUNITY, HOWEVER, ARE NOW ARGUING THAT THE U.S. GOVERNMENT SHOULD NOT WAIT TO BECOME INVOLVED.

25. (C) BORER ASKED WHO COULD DELIVER ON THE CLASS ACTION LAWSUITS. AMBASSADOR EIZENSTAT SAID THAT THE ISSUE HAS TWO PARTS. ON THE ONE HAND, IT IS CLEAR THAT NO ONE CAN PREVENT AN INDIVIDUAL OR GROUP FROM PUBLICLY COMPLAINING ABOUT THE ELEMENTS OF A SETTLEMENT, NOR CAN ANYONE GUARANTEE THAT A MEMBER OF CONGRESS WILL NOT HOLD HEARINGS ON THE ISSUE. ON THE OTHER HAND, THE JUDGE CAN SOLVE THE PROBLEM OF LEGAL EXPOSURE BY CERTIFYING THAT A CLASS AND ALL WHO FALL WITHIN THAT CLASS ARE BOUND BY THE TERMS OF THE SETTLEMENT. THIS BRINGS LEGAL CLOSURE. THE U.S. GOVERNMENT CANNOT BE A MEDIATOR IN ACHIEVING THIS SETTLEMENT, BUT IT CAN PERHAPS PLAY A "CATALYTIC" ROLE. IN TERMS OF A SETTLEMENT, U/S EIZENSTAT INQUIRED WHETHER THE SWISS NATIONAL BANK COULD MAKE A CONTRIBUTION. AMBASSADOR DEFAGO INDICATED THAT THERE WOULD BE NO LEGAL OBSTACLE TO THIS, BUT BORER SUGGESTED IT WOULD FACE "EXTREME POLITICAL OPPOSITION."

POLITICAL CLOSURE  
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26. (C) IN TERMS OF REACHING A BROADER CLOSURE ON THIS ISSUE, AMBASSADOR EIZENSTAT NOTED THAT IT WOULD INVOLVE MANY ELEMENTS. WHAT MIGHT BE MOST HELPFUL, HE SUGGESTED, WOULD BE TO BEGIN TO SIT DOWN AND LOOK AT THE VARIOUS ELEMENTS, INCLUDING THE CLASS ACTION LAWSUIT, THE BERGIER COMMISSION AND THE VOLCKER COMMITTEE, AND DETERMINE WHEN THE VARIOUS ELEMENTS WILL LIKELY FALL INTO PLACE. NOTING THAT HE MAY BE BACK IN SWITZERLAND FOR DAVOS AT THE END OF JANUARY, AMBASSADOR EIZENSTAT SUGGESTED THAT THIS COULD BE AN OPPORTUNITY TO COMPARE NOTES ON THIS SUBJECT. FROM THIS EFFORT, IT MIGHT BE POSSIBLE TO DEVELOP A TIMETABLE AND ACTION PLAN. EUR/AGS DIRECTOR VAN HEUVEN AGREED, BUT SUGGESTED AS WELL THAT IT WOULD BE HELPFUL TO BEGIN TO EXCHANGE BASIC QUESTIONS ON CLOSURE EVEN BEFORE DAVOS.

27. (C) THE SWISS WOULD NOT MAKE A FIRM COMMITMENT. BORER



STRESSED THAT THE FEDERAL COUNCIL WOULD HAVE TO DECIDE ON THE GOVERNMENT'S INVOLVEMENT. AMBASSADOR EIZENSTAT ASSURED HIM THAT THE TWO SIDES WOULD ONLY BE DISCUSSING THE ELEMENTS OF CLOSURE, WHICH DOES NOT MAKE THEM THE ACTUAL AGENTS IN ACHIEVING IT. AMBASSADOR DEFAGO, WHO WAS ALSO PRESENT FOR THE DISCUSSIONS, INDICATED THAT THIS MIGHT BE POSSIBLE ONLY IF THE TALKS REMAINS "INFORMAL AND EXTREMELY CONFIDENTIAL."

CLOSURE ELEMENTS  
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28. (C) DESPITE SWISS MISGIVINGS, MUCH OF THE REMAINDER OF THE DISCUSSION FOCUSED ON VARIOUS ELEMENTS OF CLOSURE. ONE PROBLEM THAT EMERGED IS THE ROLE OF THE SOLIDARITY FOUNDATION. AS BORER NOTED, THERE WILL LIKELY BE TWO SEPARATE REFERENDA ON THIS SUBJECT (THE FIRST ON THE ISSUE OF MONETARY REFORM AND THE SECOND ON THE FOUNDATION ITSELF). HE ARGUED AGAINST INCLUDING THE FOUNDATION IN ANY CLOSURE "PACKAGE," NOTING THAT NOT ONLY WILL THESE REFERENDA NOT TAKE PLACE BEFORE 1999 BUT INSISTING THAT DOING SO WOULD SEND THE "WRONG SIGNAL" TO THE SWISS PEOPLE.

29. (C) WITH RESPECT TO THE WORK OF THE VOLCKER COMMITTEE AND THE BERGIER COMMISSION, AMBASSADOR EIZENSTAT STRESSED THAT IT SHOULD BE POSSIBLE TO RESOLVE EXISTING DIFFERENCES WITH JEWISH GROUPS. THE LAWYERS FOR THE PLAINTIFFS IN THE CLASS ACTION LAWSUIT, HE NOTED, HAVE INDICATED A DESIRE TO HAVE SOME REPRESENTATION ON THE VOLCKER COMMITTEE, WHILE VOLCKER HIMSELF HAS INSISTED THAT THIS IS IMPOSSIBLE AND WOULD LEAD THE SWISS BANKS TO WALK OUT OF THE PROCESS. WE SHOULD EXPLORE WAYS OF BRIDGING THIS GAP. U/S EIZENSTAT ALSO NOTED THE WJC'S DESIRE FOR A "SEAT" ON THE BERGIER COMMITTEE, AND ENCOURAGED THE SWISS TO FIND SOME WAY TO ACCOMMODATE THIS.

30. (C) AMBASSADOR DEFAGO INSISTED THAT THE BERGIER COMMISSION MEMBERS ARE OPPOSED TO WJC MEMBERSHIP. THESE NINE "STUBBORN" HISTORIANS, HE NOTED, DO NOT SEE ANY POLITICAL ASPECT TO THEIR WORK. AMBASSADOR EIZENSTAT SUGGESTED THAT IT MIGHT NOT BE NECESSARY TO INCLUDE A FORMAL WJC MEMBER, BUT RATHER TO ALLOW THEM ACCESS AS AN "OBSERVER" OR PERMIT THEM TO NOMINATE AN APPROPRIATE AND QUALIFIED CANDIDATE. HE URGED THE SWISS TO GIVE THIS MATTER CAREFUL CONSIDERATION.

MUTUAL RECOGNITION AGREEMENTS  
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31. (C) FINALLY, AMBASSADOR EIZENSTAT NOTED THE IMPORTANCE OF CONTINUING TO PURSUE OTHER ITEMS ON THE BILATERAL AGENDA. IN THIS RESPECT, HE OFFERED TO BE OF ASSISTANCE IN CONNECTION WITH THE NEGOTIATION OF SWISS-U.S MUTUAL RECOGNITION AGREEMENTS. AMBASSADOR DEFAGO INDICATED THAT THE SWISS WOULD WELCOME THIS ASSISTANCE. DEFAGO PLANS TO MEET NEXT WEEK WITH USTR ON THIS MATTER, AND THE SWISS UNDERSTAND THAT THIS WILL BE A LONG PROCESS.

32. (U) U/S EIZENSTAT APPROVED THIS MESSAGE. CAVANAUGH

ADMIN  
END OF MESSAGE

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