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NAZI WAR CRIMES DISCLOSURE ACT

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TAGS: KNAR, EFIN, BE, FR
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SUBJECT: NAZI GOLD: FRENCH TGC COMMISSIONER RELAYS FRENCH
THINKING ON WRAPPING UP THE "PARIS PROCESS"

REF: STATE 8161

CLASSIFIED BY A/DCM ANNE E. DERSE, REASONS 1.5 B AND D.

1. (U) THIS IS AN ACTION MESSAGE (SEE PARA 12).

2. (C) SUMMARY: THE FRENCH MEMBER OF THE TRIPARTITE GOLD COMMISSION (TGC), IN A CONVERSATION WITH ECONCOUNS FOLLOWING THE JANUARY 16 TGC MEETING, OUTLINED ISSUES PARIS SEES ARISING AS THE PROCESS OF RESTITUTING MONETARY GOLD LAUNCHED UNDER THE 1946 PARIS AGREEMENT IS CONCLUDED. IN SUM, ACCORDING TO THE FRENCH COMMISSIONER, THE THREE GOVERNMENTS NEED TO CONSIDER WHETHER THEY HAVE FULFILLED THE MANDATE OF THE PARIS ACCORD AND FIND A FORMULA TO WRAP UP DEFINITELY THE WORK OF THE TGC AND THE PARIS PROCESS. IN THIS CONTEXT, THEY NEED TO CONSIDER THE POSSIBILITY THAT ADDITIONAL MONETARY GOLD MIGHT BE DISCOVERED AND HOW THIS SHOULD BE ADDRESSED. THE FRENCH COMMISSIONER INDICATED THAT THE FRENCH WOULD BE AMENABLE TO A MEETING TO SHARE INITIAL THINKING; WE AGREED TO SEEK WASHINGTON'S VIEWS. PLEASE SEE ACTION REQUESTED IN PARA 12. END SUMMARY

3. (C) FOLLOWING THE REGULAR MONTHLY MEETING OF THE TRIPARTITE GOLD COMMISSION (TGC) IN BRUSSELS ON JANUARY 16 (SEPTEL), FRENCH COMMISSIONER PHILIPPE MALO CALLED ECONCOUNS AND SPENT CLOSE TO AN HOUR OUTLINING ISSUES RELATING TO WRAPPING UP THE WORK OF THE TGC, IN THE CONTEXT OF CONCLUDING THAT PORTION OF THE POST WAR RESTITUTION PROCESS LAUNCHED UNDER THE 1946 PARIS AGREEMENT. HE FOLLOWED UP WITH A PHONE CALL ON JANUARY 20 OFFERING COMMENTS ON THE US DRAFT OF A DOCUMENT NOW UNDER CONSIDERATION BY THE TGC.

4. (C) BOTH CALLS WERE NOTABLE IN THAT MALO HAS IN THE PAST SEVERAL MONTHS BEEN RELATIVELY QUIET IN TGC MEETINGS AND HAS NOT PURSUED INFORMAL SUBSTANTIVE CONTACTS WITH US, OR TO OUR KNOWLEDGE, WITH THE BRITISH COMMISSIONER. MALO MADE CLEAR, HOWEVER, THAT MR. FILHOL AT THE QUAI D'ORSAY HAS BEEN IN CLOSE TOUCH WITH HIM RECENTLY, DISCUSSING ISSUES PARIS IS CONSIDERING IN RELATION TO CONCLUDING THE WORK OF THE TGC. "BECAUSE OF OUR UNIQUE POSITION (AS BOTH TGC MEMBER AND TGC CLAIMANT) WE HAVE TO ACT A LITTLE BEHIND OUR HAND," HE NOTED, EXPLAINING THAT HE DID NOT EXPECT FILHOL TO MAKE FORMAL APPROACHES ON THE FOLLOWING POINTS EITHER IN PARIS OR IN WASHINGTON. HIS CALLS, HOWEVER, SUGGEST RENEWED FRENCH INTEREST IN CONTRIBUTING TO AN EARLY CONCLUSION OF THE TGC PROCESS.

5. (C) IN SUM, MALO SAID, THE TRIPARTITE GOVERNMENTS NEED TO CONSIDER, IN THE CONTEXT OF WRAPPING UP THE WORK OF THE TGC, HOW TO DEAL WITH THE POSSIBILITY THAT ADDITIONAL MONETARY

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GOLD MAY BE UNCOVERED BY THE RESEARCH NOW UNDERWAY IN MANY COUNTRIES, ESPECIALLY NEUTRALS, LIKE ARGENTINA. HE SUGGESTED THAT THERE IS A FUNDAMENTAL CONTRADICTION IN DECLARING THAT THE WORK OF THE TGC -- AND THE WORK OF THE TRIPARTITE GOVERNMENTS UNDER THE MANDATE GIVEN THEM IN THE PARIS ACCORD -- IS FINISHED, AND AT THE SAME TIME SAYING THAT WE INTEND TO SEARCH FOR ADDITIONAL MONETARY GOLD. MOREOVER, WAIVERS FROM CLAIMANTS NOTWITHSTANDING, THE PROCESS MUST BE CONCLUDED IN A WAY THAT WILL SATISFY THE PARIS SIGNATORIES OR THEY WILL FIND WAYS TO ATTACK IT. (HE ALLUDED HERE TO THE RECENT ITALIAN DEMARCHE - REFTTEL). TO CONCLUDE DEFINITELY THE POST WAR PROCESS OF RESTITUTION LAUNCHED UNDER THE PARIS ACCORD ("PARIS PROCESS") SIGNATORIES TO THE ACCORD PROBABLY NEED TO AGREE THAT THE WORK OF THE TGC AS A VEHICLE FOR DISTRIBUTING THE MONETARY GOLD COLLECTED TO DATE IS OVER (WITH CLOSURE OF THE GOLD POOL); AND SECOND, ALSO NEED TO AGREE ON HOW ANY ADDITIONAL GOLD THAT MAY BE FOUND WILL BE DISPOSED OF, MALO OPINED.

6. (C) THERE ARE A NUMBER OF WAYS THAT ANY ADDITIONAL MONETARY GOLD THAT COMES TO LIGHT COULD BE HANDLED, MALO MUSED. SIGNATORIES COULD AGREE THAT WITH THE CLOSURE OF THE TGC POOL, THEY CONSIDER THAT THERE IS NO MORE "MONETARY" GOLD TO BE FOUND AND RETURNED TO CLAIMANTS; AND AGREE FURTHER THAT IF SUCH ADDITIONAL GOLD IS DISCOVERED, IT SIMPLY WOULD BE TREATED AS NON-MONETARY (AND PRESUMABLY HANDLED IN ACCORDANCE WITH PROCEDURES ESTABLISHED FOR HANDLING NON-MONETARY GOLD).

7. (C) ALTERNATIVELY, IT COULD BE AGREED THAT WITH THE CLOSURE OF THE TGC POOL, ANY GOLD SUBSEQUENTLY FOUND IS TO BE EVALUATED ACCORDING TO THE DEFINITION OF MONETARY GOLD USED BY THE TGC DURING ITS LIFE, AND DIVIDED AND DISTRIBUTED ACCORDING TO THE CRITERIA USED BY THE TGC. RESPONSIBILITY FOR HANDLING SUCH AN EVENTUALITY COULD BE VESTED IN THE BANK OF ENGLAND OR ONE OF THE THREE GOVERNMENTS. THE ACCOUNT NOW HELD BY THE THREE GOVERNMENTS AT THE BOE COULD BE KEPT OPEN FOR THIS PURPOSE AND THE BOE GIVEN INSTRUCTIONS ON HOW TO DISPOSE OF ANY ADDITIONAL DEPOSITS. OR, SIGNATORIES COULD CONSIDER CREATING A NEW VEHICLE AND A NEW FRAMEWORK TO SUCCEED THAT SET UP UNDER THE PARIS AGREEMENT FOR HANDLING ADDITIONAL GOLD THAT MIGHT BE FOUND. FINALLY, SIGNATORIES COULD AGREE THAT WITH THE CLOSURE OF THE TGC, THE PROCESS OF RESTITUTING MONETARY GOLD IS OVER, AND INDIVIDUAL COUNTRIES THAT THINK THEY HAVE CLAIMS ON ANY GOLD SUBSEQUENTLY DISCOVERED COULD PURSUE THEM ON THEIR OWN.

8. (C) THE GIST OF MALO'S REMARKS APPEARED TO BE THAT THE TO SUCCESSFULLY CONCLUDE THE PARIS PROCESS, IT IS ESSENTIAL THAT THERE BE A REAL, POLITICAL CONSENSUS AMONG SIGNATORIES TO THE PARIS AGREEMENT ON HOW IT IS DONE, TO AVOID TO THE MAXIMUM EXTENT POSSIBLE ANY SUBSEQUENT CHALLENGES. WITH AN APPARENT EYE TO POSSIBLE POLITICAL, IF NOT LEGAL, ATTACKS, HE NOTED SEVERAL TIMES THAT THE FRENCH GOVERNMENT'S LEGAL ANALYSTS DO NOT VIEW WAIVERS, OLD OR NEW, AS OF MUCH REAL VALUE, ABSENT SUCH A CONSENSUS: "FRANCE DOES NOT BELIEVE THAT THE WAIVERS WILL STOP SOMEONE UNHAPPY WITH THE PROCESS FROM

QUESTIONING IT. SIGNATORIES MUST AGREE THAT THERE IS NO MORE GOLD TO FIND, AND THAT DISTRIBUTIONS ALREADY MADE WERE FAIR. WITH THE WAIVERS, THEY ACCEPTED THAT THE DISTRIBUTIONS WERE FAIR. BUT THE WAIVERS DO NOT DEAL WITH THE FIRST POINT," HE MAINTAINED.

9. (C) MALO CONTINUED THAT PARIS IS PONDERING THESE QUESTIONS AND "THAT IS WHY THEY DO NOT WANT TO RELEASE THE TGC ARCHIVES UNTIL THE PROCESS IS REALLY FINISHED." HE SAID THIS IS ALL THE MORE RELEVANT GIVEN THAT THE COLD WAR PROMPTED TRIPARTITE GOVERNMENTS TO "MIX CRITERIA," AND APPLY CRITERIA APPROPRIATE TO THE TIME THAT MIGHT NO LONGER BE CONSIDERED SO. THE SUCCESSOR STATES TO CZECHOSLOVAKIA, OR AUSTRIA, FOR EXAMPLE, COULD CALL INTO QUESTION HOW GOLD LOOTED BEFORE THE FORMAL OUTBREAK OF THE WAR WAS HANDLED IN TGC ADJUDICATIONS. WERE THOSE CONSIDERED "ALLIES OF THE WEST" ACCORDED MORE FAVORABLE TREATMENT BY THE TGC? IT IS USELESS, MALO OPINED, TO TRY TO "MULTIPLY THE LEGAL PROTECTIONS (SUCH AS IN THE WAIVERS);" WITHOUT FINDING A DEFINITIVE POLITICAL FORMULA FOR CONCLUDING THE PARIS PROCESS. "THE THREE GOVERNMENTS SHOULD SAY WE ARE NOT GOING TO SEEK MORE GOLD. OUR MANDATE IS FINISHED, THE TGC IS DISSOLVED. AND IN A NOTE TO SIGNATORIES WE SHOULD SAY IF MORE IS FOUND, IT SHOULD BE DEFINED AND DIVIDED BY THE TGC CRITERIA," HE CONCLUDED.

10. (C) COMMENT: WE DO NOT THINK THAT THIS LAST REMARK NECESSARILY SIGNALLED A FRENCH PREFERENCE FOR THIS APPROACH. MALO'S COMMENTS WERE ALL MORE IN THE VEIN OF MUSING ABOUT POSSIBLE OPTIONS, AS OPPOSED TO MAKING FIRM PROPOSALS, AND THIS WAS LIKELY A (JUSTIFIABLY) FRUSTRATED REACTION TO THE TGC'S LENGTHY AND INCLUSIVE DISCUSSION EARLIER IN THE DAY ON HOW TO HANDLE WAIVERS. END COMMENT

11. (C) TO ADVANCE THE PROCESS, THE TGC NEEDS TO MAKE PROGRESS WITH THE NETHERLANDS ON ITS FINAL DISTRIBUTION; ONCE ONE CLAIMANT HAS RECUPERATED ITS SHARE, THE OTHERS WILL FOLLOW, AND "OUR CAPITALS WILL NEED TO THINK ABOUT THE NEXT STEPS," MALO SAID. HE ADDED THAT FILHOL "UNDERSTOOD WASHINGTON MIGHT WANT TO MEET TO DISCUSS THESE ISSUES," AND THAT FRANCE "AGREED" THIS WOULD BE USEFUL. HE SUGGESTED A MEETING OF THE THREE GOVERNMENTS, IF NOT THE WHOLE GOLD TASK FORCE. ECONCOUNS AGREED TO RELAY THIS TO WASHINGTON AND PROVIDE MALO WITH OUR RESPONSE.

12. (C) ACTION REQUESTED: MALO APPEARED TO BE ENCOURAGING A LOW KEY, BRAINSTORMING SESSION IN WHICH THE THREE GOVERNMENTS WOULD MEET TO IDENTIFY PRELIMINARILY ISSUES RELATING TO A DETERMINATION THAT WE HAVE FULFILLED OUR MANDATE UNDER THE PARIS AGREEMENT, AND WHAT MIGHT NEED TO BE DONE TO CONCLUDE THAT PROCESS. THESE QUESTIONS HAVE ARISEN TANGENTIALLY AT TCC MEETINGS (TANGENTIALLY BECAUSE COMMISSIONERS AGREE THEY ARE MATTERS FOR THE THREE GOVERNMENTS, NOT THE TGC ITSELF), AS THE TGC CONSIDERS TECHNICAL DETAILS OF THE FINAL DISTRIBUTION PROCESS WITHIN ITS PURVIEW, INCLUDING ACKNOWLEDGEMENT OF WAIVERS AND THE

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NEED FOR A DECLARATION OF THE FINAL AMOUNT CONTAINED IN THE TGC POOL. THE RECENT ITALIAN DEMARCHE (REFTEL), REPORTED, AS INSTRUCTED, AT THE JANUARY 16 TGC MEETING (SEPTTEL), SEEMS TO HAVE THROWN THESE ISSUES INTO RELIEF FOR THE FRENCH. PLEASE PROVIDE USG VIEWS ON MALO'S PROPOSAL AND GUIDANCE ON ANY NEXT STEPS. END ACTION REQUESTED. END ACTION REQUESTED.

13. (C) COMMENT: GIVEN FRANCE'S RELATIVELY LOW PROFILE ON NAZI GOLD ISSUES IN RECENT MONTHS, THE APPARENT NEW INTEREST IN CONTRIBUTING CONSTRUCTIVELY TO THE PROCESS IS POSITIVE. AS THE WORK OF THE TGC IS WRAPPED UP, THE THREE GOVERNMENTS, AS MALO SUGGESTS, DO INDEED NEED TO CONSIDER THE BROADER ISSUE OF FULFILLMENT OF THE MANDATE GIVEN THEM UNDER THE PARIS ACCORD. A MEETING IN THE NEAR FUTURE TO SHARE INITIAL THINKING STRIKES US AS WORTHWHILE.
BLINKEN

ADMIN
END OF MESSAGE

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