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SUBJECT: NAZI GOLD: EIZENSTAT URGES BORER TO ENGAGE POSITIVELY.

1. (U) CLASSIFIED BY U/S STUART EIZENSTAT. REASONS:1.5  
(B) AND (D)

2. C) BEGIN SUMMARY: DURING HIS MARCH 9 MEETING ON HOLOCAUST ASSETS WITH SWISS SPECIAL AMBASSADOR THOMAS BORER, UNDER SECRETARY EIZENSTAT OUTLINED PROGRESS IN THE CLASS ACTION LAWSUIT AND IN REESTABLISHING A DIALOGUE BETWEEN THE WJC AND THE BANKS. HE UNDERLINED THE URGENT NEED FOR THE SWISS GOVERNMENT TO ENGAGE NOW IN FINDING A COMMON APPROACH TO A GLOBAL SETTLEMENT. HE ALSO ENCOURAGED BORER AND OTHER LEADING SWISS PUBLIC FIGURES TO CONTINUE TO OBSERVE A "TIME OUT" ON PROVOCATIVE STATEMENTS OR ACTIONS. BORER SAID THREATS AND "HARASSMENT" CONTINUED TO ENDANGER THE BILATERAL RELATIONSHIP AND MADE IT DIFFICULT FOR EITHER THE SWISS BANKS OR GOVERNMENT TO TAKE NOW THE NECESSARY STEPS TO COME TO CLOSURE. EIZENSTAT SAID THE WASHINGTON CONFERENCE HOLOCAUST ASSETS WOULD BE HELD JUNE 22 AND THE SECOND HISTORICAL REPORT WAS SCHEDULED FOR RELEASE APRIL 29. END SUMMARY.

BORER CLAIMS BANKS UNABLE TO ACT NOW

3. (C) IN A MARCH 9 MEETING, U/S EIZENSTAT REVIEWED WITH SWISS AMBASSADOR THOMAS BORER, EIZENSTAT'S VERY PUBLIC SUPPORT OF SWISS STEPS TO ADDRESS THE HOLOCAUST ASSETS ISSUE AND HIS CONTINUED PERSONAL INVOLVEMENT WITH THE ISSUE. BORER EXPRESSED APPRECIATION, AND EXPLAINED THAT THE BIG THREE SWISS BANKS WERE IN A DIFFICULT POSITION WITHIN SWITZERLAND. THEY WANTED A SETTLEMENT, BUT WERE ENCOUNTERING INCREASING RESISTANCE FROM THE SWISS PUBLIC, INCLUDING THE POLITICAL ELITE. THIS WAS EASIER FOR CREDIT SUISSE, BUT SENATOR D'AMATO'S RECENT LETTER OPPOSING THE MERGER OF UBS AND SBC HAD FURTHER ENFLAMED THE DOMESTIC MOOD. BORER THOUGHT IT WAS THEREFORE IN THE INTEREST OF THE CURRENT BOARDS OF THE TWO BANKS TO DELAY ANY DEFINITIVE ACTION ON A SETTLEMENT UNTIL THE MERGER WAS APPROVED AND THE NEW BANK CONSTITUTED.

PROGRESS MADE ON CLASS ACTION LAWSUIT

4. (C) BORER ASKED ABOUT THE CLASS ACTION LAWSUIT. EIZENSTAT TOLD HIM THE PARTIES HAD MADE SOME ENCOURAGING PROGRESS IN WORKING OUT THE STRUCTURE OF A POTENTIAL SETTLEMENT, BUT THERE WAS SOME URGENCY IN DEMONSTRATING-PROGRESS. A KEY DEVELOPMENT HAD BEEN ISRAEL SINGER'S RECENT DIRECT TALKS WITH THE BANKS' CEOS, AND SINGER'S AGREEMENT TO BE BOUND BY THE JUDGE'S DECISION AS LONG AS HE HAD A ROLE IN THE SETTLEMENT. EIZENSTAT EXPLAINED THE PLAINTIFFS' ATTORNEYS WERE INTERESTED IN PURSUING MEETINGS IN THE NEXT WEEKS WITH THE VOLCKER AND BERGIER COMMISSIONS. HE WAS REASONABLY CONFIDENT THAT THE STRUCTURE FOR A SETTLEMENT COULD BE WORKED OUT. THERE WERE STILL SOME QUESTIONS OPEN ON THE PROCESS FOR ARRIVING AT AN AMOUNT AND

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THE SELECTION OF A MEDIATOR.

5. (C) EIZENSTAT CHARACTERIZED THE SITUATION AS STILL VERY COMBUSTIBLE. IT WAS VERY DIFFICULT HOLDING ALL THE INTERESTED PARTIES BACK. HEVESI, THE CHICAGO ALDERMEN, NEW JERSEY POLITICIANS AND OTHERS WERE NOW QUIESCENT BUT WAITING FOR SIGNS OF PROGRESS; SINGER AND THE PLAINTIFFS WERE IN THE SAME POSTURE. EIZENSTAT'S "TIME-OUT" HAD LIMITED CONTROVERSIAL REMARKS, BUT DISCOVERY DURING THE

CLASS ACTION PROCEEDINGS WOULD MAKE CONTROVERSIAL ASPECTS OF THE CASE MUCH MORE PUBLIC AND DIFFICULT. HE TOLD BORER IT WAS VERY IMPORTANT FOR THE SWISS LEADERSHIP, TOO, TO ROLL WITH THE PUNCHES, AND NOT ELEVATE THE ARGUMENTS, WHICH COULD ONLY LEAD TO MORE NEGATIVE FALL OUT. IT WAS TIME TO ENCOURAGE A SETTLEMENT NOW, AND THE BANKS WOULD NEED THE SWISS GOVERNMENT, AND PERHAPS THE SWISS NATIONAL BANK (SNB), TO PLAY A COOPERATIVE AND SUPPORTIVE ROLE.

BORER: SWITZERLAND NOT READY TO SETTLE YET

6. (C) IN REPLY, BORER SAID THE SWISS GOVERNMENT CONTINUED TO SEE THE SETTLEMENT ISSUE AS ONE FOR THE BANKS TO SOLVE, ALTHOUGH SWITZERLAND WELCOMED THE BANKS AND USG'S EFFORTS. AN EARLY SETTLEMENT WAS NOT IN HIS GOVERNMENT'S INTEREST, AND THE GOVERNMENT WAS THUS NOT WILLING TO GET INVOLVED AT THIS POINT, ALTHOUGH IT MAY BE POSSIBLE TO GIVE SOME SORT OF BLESSING TO AN EVENTUAL AGREEMENT. HE URGED THE UNDER SECRETARY TO DO MORE TO PREVENT THE HOLOCAUST ASSETS ISSUE FROM CAUSING ADDITIONAL STRESS TO THE BILATERAL RELATIONSHIP AND MENTIONED, AS AN EXAMPLE, POSSIBLE DIFFICULTIES FOR SOUTHWEST BELL ON A PROJECT BID IN SWITZERLAND. THE BOARD OF THE SWISS NATIONAL BANK HAD COME TO THE CONCLUSION THAT IT WAS NOT POLITICALLY POSSIBLE TO CONTRIBUTE TO A SETTLEMENT. THEY WERE DEPENDENT ON PARLIAMENT. NOT ONLY WERE THE SWISS GOVERNMENT AND PARLIAMENT "NOT IN A POSITION TO BE VERY COOPERATIVE" BUT, INDEED, SOME PARLIAMENTARIANS WANTED TO PREVENT THE BANKS FROM PURSUING A SETTLEMENT. THESE PARLIAMENTARIANS SAW A SETTLEMENT AS AN ADMISSION OF GUILT AND THERE WERE STRONG DOUBTS ABOUT ANYONE'S ABILITY TO GUARANTEE IMPLEMENTATION OF AN AGREEMENT. MANY SWISS VIEWED THE TEMPORARY SUSPENSION OF SANCTIONS AS VEILED THREATS AND AN ORCHESTRATED EFFORT TO GET MORE MONEY. IF NY CITY WERE TO ENACT SANCTIONS, BORER WOULD LIKELY ADVISE THE BANKS TO RETALIATE BY FILING LAWSUITS AND CONSIDER MOVING TO ANOTHER STATE.

EIZENSTAT: TIME IS NOW

7. (C) EIZENSTAT EXPRESSED DISAPPOINTMENT IN THE UNWILLINGNESS OF THE SWISS GOVERNMENT TO MOVE TO CLOSURE AND TO DO MORE TO ASSIST IN THE PROCESS, DESPITE THE ENORMOUS AMOUNT OF TIME AND ENERGY THE USG WAS DEVOTING TO THIS PROCESS. SAYING THAT, AT LEAST IN RESPECT TO LOOTED

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GOLD, THE SNB ARGUABLY BORE A GREATER LIABILITY THAN THE PRIVATE BANKS, HE DISMISSED BORER'S DEFENSE THAT THE SNB HAD DONE ALL IT COULD IN DONATING 100 MILLION SWISS FRANKS TO THE SPECIAL FUND (EQUAL TO THE PROFIT IT HAD MADE IN WARTIME GOLD TRANSACTIONS) . BORER SAID THAT THE WHOLE ISSUE CAME DOWN TO ECONOMICS. THE AMOUNTS BEING MENTIONED WERE NOT REALISTIC, AND THE MORE THE VOLCKER PROCESS PROCEEDS, THE MORE THESE AMOUNTS WERE NOT REALISTIC.

8. (C) EIZENSTAT UNDERLINED THE IMPORTANCE OF BINDING PARTIES TO ANY SETTLEMENT. THE USG'S LAWYERS AT THE STATE AND JUSTICE DEPARTMENTS WERE ENGAGED AND WERE CONFIDENT THAT AN AGREEMENT COULD BE CRAFTED HERE THAT PREVENTED SIGNIFICANT FURTHER CLAIMS EMERGING FROM THE UNITED STATES. BORER APPEARED RELIEVED BUT ASKED ABOUT LIMITING FURTHER PUBLIC STATEMENTS BY THE WJC, INFORMING EIZENSTAT OF A BRONFMAN ANNOUNCEMENT THAT THERE WOULD BE A SETTLEMENT WITHIN A WEEK, AND QUANTIFYING THE AMOUNT. THE SWISS, HE SAID, HAD A DEEP DISTRUST OF ORCHESTRATED PRESSURE, AND WERE NOT WILLING TO CONTINUE BEING A PUNCHING BAG.

9. (C) THE UNDER SECRETARY EXPLAINED THAT AN AGREEMENT COULD NOT RESTRICT FIRST AMENDMENT RIGHTS BUT WOULD STOP FURTHER CLAIMS. HE THOUGHT IT COULD BE POSSIBLE TO GET A POLITICAL STATEMENT TO THE COURT FROM THE WJC IN WHICH THE ORGANIZATION AGREED TO REFRAIN FROM FURTHER PUBLIC ATTACKS. BRONFMAN'S REMARKS WERE ENORMOUSLY COUNTERPRODUCTIVE AND HE WOULD CALL BRONFMAN, BUT SAW HIS LATEST UTTERANCE AS ALL THE MORE REASON TO KEEP MOVING TO A PROMPT SETTLEMENT. EIZENSTAT WAS CONVINCED THE SWISS WOULD SEE THE LOGIC OF THIS APPROACH ONCE A SETTLEMENT WAS REACHED. IT WOULD BE HELPFUL TO HAVE SOME SORT OF BLESSING OF A FINAL STATEMENT BY THE SWISS, U.S. AND ISRAELI GOVERNMENTS, THAT IMPARTED A SENSE OF FAIRNESS AND FINALITY TO ALL PARTIES.

**INSURANCE COMPANIES COOPERATING**

10. (C) BORER TOLD EIZENSTAT THAT THE SWISS INSURANCE COMPANIES REALIZED THAT THEIR ORIGINAL LETTERS (TO WASHINGTON STATE INSURANCE COMMISSIONER DEBORAH SENN) HAD BEEN UNFORTUNATE, BUT THEY WANTED TO BE FULLY COOPERATIVE. REPRESENTATIVES FROM WINTERTHUR INSURANCE WOULD COME TO THE U.S. NEXT WEEK TO DISCUSS WITH U.S. INSURANCE COMMISSIONERS THE COMPANY'S INVESTIGATIONS AND PLANS TO OPEN ARCHIVES AND ESTABLISH A "VOLCKER" PROCESS ON INSURANCE POLICIES. BORER

SAID THE INSURANCE COMPANIES HAD BEEN RESEARCHING THEIR ARCHIVES OVER THE PAST YEAR AND WOULD GENEROUSLY RESOLVE EVERY CLAIM.

**WASHINGTON CONFERENCE ON HOLOCAUST ASSETS**

11. (C) EIZENSTAT PREVIEWED PLANS FOR THE WASHINGTON CONFERENCE TO BE HELD BY THE STATE DEPARTMENT AND THE HOLOCAUST MEMORIAL MUSEUM THE WEEK OF JUNE 22. AFTER AN

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OPENING CEREMONY AND RECEPTION THAT EVENING AT THE MUSEUM, A COMBINATION OF PLENARY AND BREAK-OUT SESSIONS WOULD BE HELD AT THE DEPARTMENT. A SESSION ON GOLD WOULD BE HELD THE FIRST DAY TO MAINTAIN THE SUBSTANTIVE LINK WITH THE LONDON CONFERENCE. TO BORER S QUESTION WHY GOLD HAD TO BE RAISED AT ALL, EIZENSTAT SAID THE PRIMARY FOCUS WOULD BE ON CLOSING DOWN THE TRIPARTITE GOLD COMMISSION. THE BALANCE OF THE CONFERENCE WOULD FOCUS ON OTHER ASSETS ISSUES-- ESPECIALLY ART AND INSURANCE BUT ALSO JEWELRY AND GEMS, BOOKS AND MANUSCRIPTS AND POSSIBLY REAL PROPERTY (INDIVIDUAL AND COMMUNAL).

SECOND HISTORICAL REPORT

12. C) EIZENSTAT SAID THE SECOND INVESTIGATIVE REPORT INTO HOLOCAUST ISSUES WAS TENTATIVELY SCHEDULED FOR RELEASE APRIL 29. THE REPORT HAD BEEN DELAYED WHILE THE U.S. SOUGHT TO OBTAIN MORE INFORMATION FROM REICHSBANK AND DEGUSSA FILES AND ON VATICAN SHIPMENTS OF USTASHI GOLD FROM CROATIA. THE REPORT WOULD TOUCH ONLY TANGENTIALLY ON SWITZERLAND. BORER TOLD EIZENSTAT THE BERGIER COMMISSION 5 REPORT ON GOLD FLOWS WOULD BE RELEASED APRIL 5, AND PROMISED AN ADVANCE COPY THREE DAYS BEFORE ITS RELEASE. HE ASKED THAT THE USG SIMILARLY PROVIDE AN ADVANCE COPY OF ITS SECOND HISTORICAL REPORT.

HOLOCAUST VICTIMS ELIGIBLE FOR SOLIDARITY FOUNDATION

13. (C) REFERRING TO A QUESTION RAISED BY U/S EIZENSTAT DURING A JANUARY MEETING IN DAVOS, BORER SAID THE SWISS GOVERNMENT HAD MADE A CLEAR COMMITMENT TO INCLUDE HOLOCAUST VICTIMS AMONG SOLIDARITY FOUNDATION BENEFICIARIES. SWISS FEDERAL COUNCILOR VILLIGER SPECIFICALLY NOTED HOLOCAUST

VICTIMS IN THE BILL HE PRESENTED TO THE PARLIAMENT, BORER SAID.

14. U) SWISS PARTICIPANTS: AMBASSADOR THOMAS BORER, SWISS AMBASSADOR TO U.S. ALFRED DEFAGO, AND TASK FORCE ASSISTANT HANS PETER MOCK. U.S. PARTICIPANTS: UNDER SECRETARY EIZENSTAT, E SPECIAL ADVISOR FREEMAN, EUR/AGS OFFICE DIRECTOR VAN HEUVEN, AMEMBASSY BERN DGM CAVANAUGH, EUR/AGS FRY (NOTETAKER)  
ALBRIGHT

ADMIN  
END OF MESSAGE

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