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DEPT FOR U/S EIZENSTAT AND EUR/AGS

TREASURY FOR IM (MCFADDEN)

USIA FOR WEU

E.O. 12958: DECL: /26/08

TEXT

TAGS: KNAR, EFIN, PHUM, PGOV, SZ
SUBJECT: HOLOCAUST-ERA ASSETS: U/S EIZENSTAT'S MEETINGS WITH
SWISS OFFICIALS IN DAVOS

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

2. SUMMARY: IN MEETINGS WITH SWISS OFFICIALS IN DAVOS, U/S
EIZENSTAT UNDERSCORED U.S. EFFORTS TO FOSTER A BETTER CLIMATE OF
OPINION ON BOTH SIDES OF THE ATLANTIC IN THE ONGOING DISCUSSION OF
HOLOCAUST-ERA ASSETS. HE STRESSED THE NEED TO AVOID CONFRONTATION
OR RECRIMINATIONS, AND ENCOURAGED SWISS OFFICIALS TO KEEP IN CLOSE
CONTACT IN ORDER TO CREATE A MORE POSITIVE ENVIRONMENT AND AVOID

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OVERLY DEFENSIVE REACTIONS TO FUTURE DEVELOPMENTS. HE ASKED SWISS OFFICIALS TO HELP PERSUADE THE BANKS TO REENGAGE IN THE DISCUSSIONS OF THE STRUCTURE FOR A POSSIBLE SETTLEMENT OF THE CLASS ACTION LAWSUIT, AND REQUESTED PRIVATE REASSURANCE THAT HOLOCAUST VICTIMS AND HOLOCAUST-RELATED EDUCATION WOULD BE INCLUDED WITHIN THE SCOPE OF THE PROPOSED SOLIDARITY FOUNDATION. OVERALL, HE URGED A MORE ACTIVE SWISS GOVERNMENT ROLE IN THE SEARCH FOR CLOSURE TO THESE ISSUES. SWISS OFFICIALS VOICED APPRECIATION FOR U/S EIZENSTAT'S ROLE AND U.S. MEASURES TO CALM THINGS DOWN. THEY PROMISED TO ENCOURAGE THE BANKS TO CONTINUE DISCUSSIONS WITH PLAINTIFFS' LAWYERS, BUT OTHERWISE SHOWED CONTINUED RELUCTANCE TO PLAY A MORE ACTIVE ROLE. WHILE CAUTIOUS WITH RESPECT TO THE SOLIDARITY FOUNDATION, SWISS OFFICIALS POINTED TO PUBLIC STATEMENTS SUGGESTING THAT NO GROUP OR HUMANITARIAN CAUSE WOULD BE EXCLUDED FROM THE FOUNDATION'S PURVIEW. END SUMMARY.

3. (C) ON THE MARGINS OF THE WORLD ECONOMIC FORUM IN DAVOS, U/S EIZENSTAT HELD A SERIES OF MEETINGS WITH SENIOR SWISS OFFICIALS, INCLUDING TWO MEETINGS WITH PRESIDENT COTTI AND A MEETING WITH FINANCE MINISTER VILLIGER. HE ALSO MET SEPARATELY WITH THE HEAD OF THE SWISS TASK FORCE, THOMAS BORER. AMBASSADOR KUNIN PARTICIPATED IN TWO OF THE MEETINGS, AND EUR/AGS DIRECTOR VAN HEUVEN AND POL/ECON COUNSELOR SMITH WERE ALSO PRESENT. THE FOLLOWING IS A SYNTHESIS OF THE DISCUSSIONS.

CLIMATE OF THE DEBATE

4. (C) AMBASSADOR EIZENSTAT OUTLINED FOR SWISS OFFICIALS THE ADMINISTRATION'S SUPPORT FOR SWISS ACTIONS WITH RESPECT TO HOLOCAUST-ERA ASSETS AND OUR EFFORTS TO CREATE A BETTER ATMOSPHERE FOR DIALOGUE ON BOTH SIDES OF THE ATLANTIC. THE SECRETARY'S VISIT TO BERN IN NOVEMBER AND THE FIRST LADY'S UPCOMING VISIT TO SWITZERLAND WERE STRIKING EVIDENCE OF OUR COMMITMENT TO THIS RELATIONSHIP, OUR APPRECIATION FOR SWISS ACTIONS AND OUR CONCERN FOR RECENT EVENTS. IN A PUBLIC STATEMENT RELEASED PRIOR TO HIS MEETINGS WITH THE SWISS IN DAVOS, U/S EIZENSTAT CALLED FOR A "TIME OUT" ON VERBAL ATTACKS AND MUTUAL RECRIMINATIONS AND A PERMANENT MORATORIUM ON THREATS OF BOYCOTTS OR SANCTIONS. HE HOPED THAT THIS APPEAL, TOGETHER WITH HIS PRIVATE DISCUSSIONS WITH KEY PARTIES IN THE U.S., WOULD HELP CREATE A BETTER OVERALL CLIMATE. HE ASKED SWISS OFFICIALS, HOWEVER, FOR THEIR ASSISTANCE IN PERSUADING THE SWISS PUBLIC AND PRESS NOT TO OVERREACT TO THE "FREE WHEELING" AMERICAN POLITICAL SCENE.

5. (C) SWISS OFFICIALS VOICED APPRECIATION FOR U.S. EFFORTS. PRESIDENT COTTI SAID THAT THE SWISS GOVERNMENT HAD BEEN PLEASED WITH HOW THINGS WERE GOING AT THE END OF LAST YEAR, BUT THAT RECENT EVENTS HAD SERIOUSLY DISTURBED HIM AND THE SWISS PUBLIC. COTTI SAID THAT HE HAD BEEN "HURT IN HIS SOUL" BY THE COMPARISON A WORLD JEWISH CONGRESS REPRESENTATIVE HAD MADE BETWEEN HIM AND KURT WALDHEIM, INSISTING THAT HE HAS ALWAYS BEEN A FIRM OPPONENT OF ANTI-SEMITISM. HE AGREED, HOWEVER, WITH THE NEED TO IMPRESS UPON THE SWISS PUBLIC THAT STATEMENTS MADE BY VARIOUS INDIVIDUALS AND GROUPS IN THE UNITED STATES DO NOT NECESSARILY REPRESENT THE VIEWS OF THE U.S. GOVERNMENT. THIS WILL NOT BE EASY. "THE SWISS PEOPLE ARE ANGRY," FINANCE MINISTER VILLIGER OBSERVED, AND THEY FIND IT

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INCREASINGLY DIFFICULT IN THE CURRENT "CHAOS" TO UNDERSTAND WHAT IS HAPPENING. RELEASE OF THE WIESENTHAL CENTER'S REPORT ON SWISS REFUGEE CAMPS AND THE FILING OF A LAWSUIT ON BEHALF OF FORMER SECURITY GUARD CHRISTOPH MEILI ARE ONLY THE LATEST EXAMPLES OF WHAT MANY SWISS SEE AS A CALLOUS AND CONCERTED EFFORT TO MALIGN SWITZERLAND.

NEED FOR CLOSE COOPERATION

6. (C) EMPHASIZING THAT WHILE WE CANNOT PREVENT NEW ATTACKS OR KEEP ANYONE FROM FILING A NEW SUIT, AMBASSADOR EIZENSTAT SAID THAT WE ARE DOING ALL WE CAN BOTH IN PUBLIC AND IN PRIVATE TO CALL ATTENTION TO THE POSITIVE THINGS SWITZERLAND HAS DONE AND TO URGE A MORE REASONED DISCUSSION OF THE ISSUES. HE ENCOURAGED SWISS OFFICIALS, MOREOVER, TO REFRAIN FROM OVERLY DEFENSIVE RESPONSES AND HELP CONVINCE THE SWISS PUBLIC THAT SWITZERLAND IS NOT BEING SINGLED OUT. TOWARD THIS END, AMBASSADOR EIZENSTAT SUGGESTED THAT SWISS OFFICIALS CONSULT MORE CLOSELY WITH US TO BETTER COORDINATE A RESPONSE TO NEW ISSUES OR EVENTS--A SUGGESTION THE SWISS QUICKLY

ENDORSED. HE ALSO EXPRESSED WILLINGNESS TO WRITE EDITORIALS BOTH FOR THE NEW YORK TIMES AND FOR A LEADING SWISS NEWSPAPER AIMED AT SHAPING PUBLIC OPINION.

HISTORICAL STUDIES

7. (C) THE SECOND U.S. REPORT ON WARTIME NEUTRALS WILL BE RELEASED IN EARLY MARCH, AMBASSADOR EIZENSTAT NOTED, AND SHOULD HELP PLACE SWITZERLAND'S ROLE IN A BROADER CONTEXT. THERE WILL BE SEPARATE CHAPTERS ON ARGENTINA, PORTUGAL, SPAIN, SWEDEN AND TURKEY, BUT NO SPECIFIC SECTION ON SWITZERLAND. SWITZERLAND, HOWEVER, WILL BE MENTIONED WITH REGARD TO THE TRANSFER OF LOOTED GOLD OR THE USE OF SWISS FRANCS AS A MEDIUM OF PAYMENT, AND THERE WILL LIKELY BE A SMALL SECTION ON THE USTASHA GOLD INDICATING THAT SOME OR ALL OF THIS GOLD MAY HAVE ENDED UP DIRECTLY OR INDIRECTLY IN SWITZERLAND.

8. (C) U/S EIZENSTAT PRAISED THE "TREMENDOUSLY COURAGEOUS" FIRST REPORT OF THE BERGIER COMMISSION. THERE WILL LIKELY BE CONTINUED FALLOUT FROM FUTURE INTERIM BERGIER REPORTS, HE NOTED, AND WE MUST FIND WAYS TO HANDLE THIS TOGETHER. IN TERMS OF COMING TO CLOSURE WITH THESE ISSUES, AMBASSADOR EIZENSTAT INDICATED THAT IT WOULD BE PREFERABLE FOR THE BERGIER COMMISSION TO COMPLETE ITS WORK SOONER. WE CANNOT WAIT FOR 2001 WHEN THE COMMISSION SUBMITS ITS FINAL REPORT TO TRY TO "CLOSE THE BOOKS." WITH THE RELEASE OF INTERIM REPORTS ON GOLD AND REFUGEES THIS YEAR, HOWEVER, IT MAY BE THAT THE MAIN PIECES WILL ALREADY BE IN PLACE.

9. (C) SWISS OFFICIALS STRESSED THAT WHILE THEY THEMSELVES WOULD HAVE LIKED THE BERGIER COMMISSION TO COMPLETE ITS WORK SOONER, THE COMMISSION REMAINS "ABSOLUTELY INDEPENDENT." THE FEDERAL COUNCIL, COTTI NOTED, HAD ORIGINALLY PROPOSED A THREE-YEAR TIME FRAME FOR THE COMMISSION BUT PARLIAMENT EXTENDED IT TO FIVE. THAT SAID, SWISS OFFICIALS WELCOMED AMBASSADOR EIZENSTAT'S PROPOSAL TO CONSULT PRIVATELY IN ADVANCE OF THE RELEASE OF NEW REPORTS.

CLASS ACTION LAWSUIT

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10. (C) OUTLINING IN GENERAL TERMS THE PROGRESS MADE IN CREATING A SETTLEMENT MECHANISM IN THE CLASS ACTION LAWSUIT AGAINST SWISS BANKS, AMBASSADOR EIZENSTAT ASKED FOR SUPPORT IN PERSUADING THE BANKS TO REENGAGE IN THE PROCESS. WE UNDERSTAND THAT THE BANKS HAVE REACTED NEGATIVELY TO RECENT EVENTS, INCLUDING THE FILING (BUT NOT SERVING) OF A NEW LAWSUIT AGAINST UBS IN CONNECTION WITH THE MEILI CASE AND THE WIESENTHAL CENTER REPORT ON LABOR CAMPS, AND WE ARE DOING ALL WE CAN TO DISCOURAGE FURTHER ACTIONS WHICH ONLY MAKE PROGRESS MORE DIFFICULT. IN THE END, THE BANKS MAY DECIDE THAT NO REASONABLE SETTLEMENT IS POSSIBLE, BUT WE NEED TO GET TO THIS POINT FIRST AND THAT WILL REQUIRE COOPERATION ON ALL SIDES. FOR THEIR PART, ISRAEL SINGER OF THE WORLD JEWISH CONGRESS AND NEW YORK CITY COMPTROLLER ALAN HEVESI HAVE INDICATED THEY WILL CONSIDER EXTENDING THE MORATORIUM ON SANCTIONS INDEFINITELY IF THE BANKS REENGAGE.

11. (C) EXPRESSING SURPRISE AT THE DECISION OF THE BANKS TO WITHDRAW FROM THE PROCESS, SWISS OFFICIALS INDICATED THEY WOULD STRONGLY ENCOURAGE THE BANKS' REENGAGEMENT. THEY NOTED, HOWEVER, THE PRESSURES THE BANKS NOW FACE DOMESTICALLY, ESPECIALLY IN LIGHT OF THE PROPOSED MERGER OF THE UNION BANK OF SWITZERLAND AND THE SWISS BANK CORPORATION WHICH WILL COST THOUSANDS OF DOMESTIC JOBS AS WELL AS RECENTLY ANNOUNCED LOSSES FROM DERIVATIVES TRADING. THOMAS BORER STRESSED THAT THE SWISS GOVERNMENT SUPPORTS THE APPROACH AMBASSADOR EIZENSTAT OUTLINED IN TRYING FIRST TO REACH AGREEMENT ON STRUCTURE. BUT WITH REGARD TO THE AMOUNT OF A SETTLEMENT, BORER OPINED, THE TWO SIDES SEEM FAR APART.

SWISS GOVERNMENT INVOLVEMENT

12. (C) FOLLOWING HIS MEETING WITH THE BANKERS (SEPTEL), AMBASSADOR EIZENSTAT RELAYED TO SWISS OFFICIALS THE BANKS' REQUEST THAT THE SWISS GOVERNMENT BECOME MORE INVOLVED IN THE PROCESS REGARDING THE CLASS ACTION LAWSUIT, ESPECIALLY SINCE THE BANKS WERE NOT THEMSELVES RESPONSIBLE FOR OTHER ISSUES LIKE SLAVE LABOR AND LOOTED GOLD. THE BANKS ALONE, HE NOTED, CANNOT BE EXPECTED TO SHOULDER THE WHOLE BURDEN, NOR CAN THEY HOPE TO SHAPE A MORE POSITIVE SWISS PUBLIC OPINION. ONLY THE SWISS GOVERNMENT CAN DO THIS.

13. (C) INDICATING THAT THEY WOULD DO THEIR PART TO CREATE A BETTER DOMESTIC POLITICAL ENVIRONMENT, SWISS OFFICIALS NEVERTHELESS SHOWED CONTINUED RELUCTANCE TO BECOME INVOLVED DIRECTLY WITH THE CLASS ACTION LAWSUIT. U/S EIZENSTAT SUGGESTED THAT ONE WAY AROUND THIS PROBLEM MIGHT BE TO RELY ON THE SWISS NATIONAL BANK. AFTER ALL, THE LOOTED GOLD HAD MOVED PRIMARILY THROUGH THE NATIONAL BANK NOT THROUGH THE COMMERCIAL BANKS, AND IT WAS THEREFORE NOT UNREASONABLE TO EXPECT THE NATIONAL BANK TO DO ITS PART. WITH THE

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PRECEDENT HAVING BEEN SET BY THE BANK'S 100 MILLION FRANC CONTRIBUTION TO THE "SPECIAL FUND," IT MIGHT BE POSSIBLE FOR THE NATIONAL BANK TO MAKE ANOTHER GESTURE WITHOUT THE GOVERNMENT'S DIRECT APPROVAL AND THE RISK OF A REFERENDUM.

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14. (C) BOTH COTTI AND VILLIGER STRESSED THAT THE FEDERAL COUNCIL HAD DISAGREED WITH THE LEGAL DECISION OF PARLIAMENT TO PERMIT THE NATIONAL BANK'S CONTRIBUTION TO THE "SPECIAL FUND" WITHOUT THE GOVERNMENT'S FORMAL APPROVAL. IT WOULD HAVE BEEN BETTER IN THEIR VIEW, AND LEGALLY MORE SOUND, TO HAVE PASSED A FEDERAL DECREE AND RISKED A REFERENDUM. WHILE NOTING THAT ONLY THE BOARD OF THE NATIONAL BANK COULD IN THE END DECIDE ABOUT A FURTHER CONTRIBUTION, COTTI SAID HE WOULD TAKE NOTE OF THE IDEA.

COMING TO CLOSURE

15. (C) POINTING TO OFFICIAL SWISS RELUCTANCE IN THE PAST TO DISCUSS THE ISSUE OF CLOSURE, AMBASSADOR EIZENSTAT ENCOURAGED HIS INTERLOCUTORS TO BEGIN THIS PROCESS IN PRIVATE. BORER AND AMBASSADOR DEFAGO, WHO ALSO ATTENDED SEVERAL OF THE MEETINGS, STRESSED THE DELICATE POSITION OF THE SWISS CONFEDERATION. FORMAL ENGAGEMENT IN THIS PROCESS IS A "HOT ISSUE" FOR THE FEDERAL COUNCIL, DEFAGO WARNED. EIZENSTAT SAID HE APPRECIATED THE POLITICAL DYNAMICS, BUT IN THE END BELIEVED THAT ALL THE GOVERNMENTS INVOLVED WOULD HAVE TO PLAY A ROLE. AT SOME POINT, THE U.S. GOVERNMENT WOULD HAVE TO SAY "WE THINK THIS IS ENOUGH FOR CLOSURE," AND PERHAPS THE BEST VEHICLE WOULD BE A MEMORANDUM OF UNDERSTANDING SIGNED BY THE U.S., SWITZERLAND AND ISRAEL. FIRST, HOWEVER, WE MUST EXPLORE AND REACH A CONSENSUS ON WHAT THIS WOULD ENTAIL. THE SWISS REMAINED NONCOMMITAL, BUT BORER INDICATED THEY WOULD GIVE THE MATTER "MORE THOUGHT."

SOLIDARITY FOUNDATION

16. (C) WITH REGARD TO THE PROPOSED SOLIDARITY FOUNDATION, U/S EIZENSTAT VOICED APPRECIATION FOR THE POLITICAL NEED TO AVOID PUBLIC LINKAGE OF THIS ISSUE WITH HOLOCAUST-ERA ASSETS. IT WOULD BE HELPFUL IN TERMS OF ACHIEVING SOME SORT OF "RADIO SILENCE" WITH VARIOUS GROUPS, HOWEVER, TO RECEIVE ASSURANCES IN PRIVATE THAT HOLOCAUST SURVIVORS AND HOLOCAUST-RELATED PROJECTS WOULD BE INCLUDED WITHIN THE FOUNDATION'S PURVIEW. SWISS OFFICIALS WERE CAUTIOUS IN THEIR RESPONSES. VILLIGER UNDERScoreD THE POLITICAL OBSTACLES THE FOUNDATION FACES AND THE NEED FOR APPROVAL BY THE SWISS PUBLIC OF THE REQUISITE CHANGES IN THE SWISS CONSTITUTION TO FREE UP THE NATIONAL BANK'S GOLD RESERVES. ALREADY NATIONAL COUNCILOR CHRISTOPH BLOCHER HAS LAUNCHED A MAJOR ATTACK ON THE FOUNDATION, WHICH HE CLAIMS IS TANTAMOUNT TO PAYING BLACKMAIL. NEVERTHELESS, VILLIGER AND COTTI BOTH POINTED TO THEIR PUBLIC STATEMENTS ON THE SCOPE OF THE FOUNDATION, STRESSING THAT "NO GROUP IS EXCLUDED" AND THAT IT WOULD CERTAINLY BE POSSIBLE IN PRINCIPLE TO INCLUDE HOLOCAUST VICTIMS AND HOLOCAUST-RELATED PROJECTS. THE FINAL DECISION, HOWEVER, WILL REST WITH THE ADMINISTRATORS OF THE FOUNDATION.

MUTUAL RECOGNITION AGREEMENTS

17. (C) FINALLY, AMBASSADOR EIZENSTAT NOTED HIS EFFORTS TO HELP MOVE OTHER ISSUES ON THE U.S.-SWISS BILATERAL AGENDA. TOWARD THIS END, HE HAD SPOKEN RECENTLY WITH MICHAEL FRIEDMAN OF FDA TO ASK FOR ASSISTANCE IN PROCEEDING WITH NEGOTIATIONS ON PHARMACEUTICALS AND

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MEDICAL DEVICES. FRIEDMAN SAID THAT HE WAS VERY MUCH IN FAVOR OF THIS, BUT MENTIONED ONGOING RESOURCE PROBLEMS. VILLIGER EXPRESSED APPRECIATION FOR EIZENSTAT'S SUPPORT AND STRESSED CONTINUED SWISS INTEREST IN MRA'S WITH THE U.S. KUNIN

ADMIN
END OF MESSAGE

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