

MEMORANDUM

September 16, 1946

TO: The Commission

FROM: Walter C. Louchheim, Jr., Adviser on Foreign Investments

SUBJECT: The Commission's Participation in International Economic and Financial Affairs.

These activities of the Commission antedate the War. Certain of these activities in which I actively participated may be briefly mentioned. Most important are:

(1) The drafting and setting up of the Foreign Funds Control under the Presidential War Powers Act. Our contribution to this consisted of recommendations relative to the control of transactions in securities. In preparation of these recommendations I made a canvass in the financial district of the ownership, volume and location of American securities held by foreigners. My relationship to the Foreign Funds Control has been a continuing one and will be mentioned further in this report.

(2) Assistance in the vesting by the United Kingdom authorities of American corporate securities and assistance in the orderly liquidation of them. This involved conferences with the British authorities and with the Secretary of the Treasury and his staff. As part of this work, I prepared an evaluation of the British-owned

securities indicating market prices at which the several blocks of stocks and bonds might be expected to be liquidated. I also advised upon the progress of this liquidation.

(3) The preparation of the census of foreign ownership of American assets and of American ownership of foreign assets. I represented the Commission on the Treasury committees which prepared those censuses.

(4) Appraisal of British direct investments. There was submitted to the Commission income tax reports of a number of business enterprises wholly or primarily owned by citizens of the United Kingdom. I made appraisals of these enterprises indicating the valuation at which they could probably be liquidated in the United States. Subsequently, one of these assets--The American Viscose Company--was sold to the public through investment bankers. One of the principal assets held by the British are marine and fire insurance companies operating in the United States. At the request of the Secretary of the Treasury I directed a detailed survey of these assets and presented an appraisal which was forwarded by the Commission.

Other items of a similar nature could be mentioned, but unless the Commission is particularly interested, would only unduly expand this report.

Foreign Investment and Economic Foreign Control

The first memorandum which I submitted on the subject of foreign investment was a joint one prepared by Mr. E. G. Collado and myself. This was submitted to the Secretary of State and the Commission in the fall of the year 1943. It is entitled "The Relation of Post-War Private Foreign Investment to United States Government Foreign Economic Policy". Copies of this memorandum are in the

possession of the Commission. This was the first discussion, to the best of my knowledge, of the problems which were to confront the government after the war, growing out of the obvious role creditor position in which the United States would find itself. Largely as a result of this memorandum a recommendation was made to the President by the Secretary of State which called for a more active program with respect to private foreign investment after the war. As a part of this program it was recommended that the authority of this Commission be considerably expanded. This recommendation was approved by the President (Franklin D. Roosevelt). To implement these recommendations, I have held conferences from time to time with representatives of the State Department, and a draft of legislation has been worked out which has had the approval of both Under-Secretaries of State. The question of submission of this legislation has not as yet been presented to the Commission as it is the subject of a committee discussion. This committee is also a consequence of the memorandum above referred to and is entitled the Foreign Investment Policy Committee, which is a sub-committee of the Executive Committee on Economic Foreign Policy. This latter is an inter-departmental committee appointed by the Secretary of State which reports through him to the President upon matters involving foreign commercial, economic and financial affairs.

As a member of the Foreign Investment Policy Committee, I have been active in the formulation of policies in these matters, not only relative to the private markets, but also as to the governments own program. The Foreign Investment Policy Committee (FIP) has considered subjects such as the joint participation of local capital in foreign investment and its effects on the interests of the United States, questions raised by

government lending to foreign borrowers in default to private investors, the petition of the marine insurance industry to the Export-Import Bank, and the formulation of an over-all program on public and private foreign investment which now awaits presentation to the Executive Committee (ECEFP) for action and probably publication.

I have been appointed chairman of a Sub-Committee of the FIP whose duties are primarily to consider the responsibility of the government with respect to private foreign investment. In the Sub-Committee the question as to the extension of the Commission's jurisdiction over foreign investment is being discussed and it is hoped that a proposal will be shortly ready for presentation both to the FIP and to the Commission.

Another committee of the Executive Committee upon which I represent the Commission is the Committee on Private Monopolies and Cartels. I have been a member of this Committee since 1943 and it has been a very active one. I have submitted to the Commission a survey of the first eighteen months of my participation on this Committee and subsequently have sent to the Commission copies of the Committee's minutes for its information. Other agencies represented besides State, are Treasury, Commerce, Justice and Agriculture. The principal activity of this Committee has been the drafting of the government's policy with respect to international restrictive agreements. This policy was then made the basis on which a draft of a convention was drawn up which became a part of the proposals for the expansion of world trade issued last summer by the Government. This in turn is the basis for the International Trade Organization Conference which is shortly to be convened. More recently, the Committee has been reviewing in detail the provisions of the International Trade Organization's (ITO) charter, particularly those which relate to the control of restrictive business

agreements in international trade and other relationship of state trading nations to free enterprise economies. This Committee meets sometimes two or three times a week when it is in active session and requires a considerable amount of attention to detail as many of its sessions are of a drafting nature, and much of the discussion is of a very cogent and technical nature. The Committee has also developed suggestions in the field of commodity agreements which impinge closely on the subject of cartels. In addition to broad policy, the Committee has in the past three years, drawn up a program with respect to the post-war colonies of Germany and Japan. These programs relate to the concentration of economic power in these countries and provide the basis for drafts which were issued to the occupying forces. Other matters which were given consideration include the disposition of patents and trademarks in these countries and future legislation relating to them.

The policy of the Alien Property Custodian has also, from time to time, been submitted to this Committee, and recommendations from it have been forwarded to the President for his action. These actions relate often to the disposition of foreign-held property in the markets of the United States and the manner in which they might best be publicly offered.

It was largely because of my representation of the Commission on this Committee that a member of our staff, Mr. Raymond Vernon, was selected to participate in the survey of the Japanese Zaibatan.

I have also brought to this Committee's notice from time to time the financial ramifications involved in international cartel organizations and pointed out the necessity of control in these fields for effective regulation.

Bretton Woods

In the autumn of 1943, Harry White, Assistant Secretary of the Treasury, submitted to me a draft of a proposal for the establishment of a World Bank on Reconstruction. I presented to Mr. White and his staff several recommendations for amendment and addition to this draft, and subsequently was invited to participate on an individual basis on a technical committee of inter-departmental technicians which he was gathering to advise him on the Bank as well as the drafting of the International Monetary Fund. This technical committee held numerous meetings during the fall of 1943 and during that period and in early 1944 also met with technical representatives of the United Kingdom and subsequently with those of the USSR, France, Czechoslovakia, and certain Latin American countries. As a result of these meetings, an invitation was extended to the United Nations to a conference to be held in Bretton Woods in July 1944.

A printed draft of the International Monetary Fund was made available but the International Bank draft was not at that time officially circulated. The Secretary of the Treasury invited the Commission to name a representative to attend that conference and I was so named. I was asked to participate in a preliminary meeting held in Atlantic City to which certain of the participating countries also were asked to send technical staffs. This meeting lasted several weeks and prepared the drafts and agenda for the Bretton Woods Conference proper. My principal contribution during these meetings, as well as the subsequent Bretton Woods Conference, was devoted to the Bank and to those aspects of the Bank which related to its connections with the private capital markets in the United States and throughout the world. I always kept in mind the interests of the

investors who, I foresaw, would be the backbone of this institution and upon whose good will it would depend.

During the Bretton Woods Conference, I had occasion to represent the U.S. delegation on several committees, particularly those which were concerned with the operation of the Bank. I submitted reports in the form of letters to the Chairman of the Commission during the Conference, which will indicate the scope of my activities there and the policy positions to which I adhered. As an indication of the extent of my work perhaps I should quote the following which I received at Bretton Woods under date of July 7, 1944:

“Dear Louchheim:

I should like to say how much I, and I am sure others, appreciate the work you and Collado have done in expediting the work on the Bank. There are various points in your draft where I shall have amendments to suggest, but you have done a grand piece of work which ought to save a wilderness of time. Thank you both very much.

Yours sincerely,

Keynes”

Subsequent to the Bretton Woods meeting, I also received letters from the Secretary of the Treasury and from Harry White, Assistant to the Secretary, thanking me for my work and complimenting me upon it and requesting my further cooperation in the realization of the agreements which had been worked out at Bretton Woods. Pursuant to these requests, I submitted to the Treasury from time to time suggestions for presenting

the Bretton Woods program to the public. For example, I suggested that pictographic presentation be used wherever possible. These suggestions bore fruit subsequently incorporated in pamphlets which were prepared for presentation of the proposals to Congress and for public discussion.

Also, at the request of Treasury, I prepared a review of foreign investment following World War I to provide a contrast with the program of foreign investment which was contemplated in the Bretton Woods proposals. This memorandum was employed in the presentation of the Bretton Woods Agreements to the Congress. I assisted this presentation, attended the Committee's sessions and discussed matters that arose with the others who were charged with the work of obtaining congressional action upon the Agreements. This took place during the winter of 1945. Upon the invitation of the Secretary of State, I attended the formal signing of the Bretton Woods Agreements, as representing the Commission, at the State Department in December, 1945.

In the summer of 1945 after the Bretton Woods Agreements had been enacted into law, I discussed with Mr. White and his staff steps which should be taken to make the International Monetary Fund and the International Bank realities. I presented outlines for organization, and in general drew up what might be an agenda for the first meeting of the board of governors. At this time I learned that such a meeting was contemplated for the early spring of 1946.

The National Advisory Council on International Monetary and Financial
Problems (NAC)

Under the Bretton Woods Agreements Act, the NAC took over the administration of the affairs of the International Monetary and Bank. The NAC consists

of the Secretary of the Treasury as Chairman, the Secretary of State, the Secretary of Commerce, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Board of the Export-Import Bank. The functions of the Council and its activities are set forth in its first report, copies of which I have previously submitted to the Commission.

The Council set up a permanent Staff Committee drawn from the agencies represented on it plus a member of this Commission. I was invited to participate on this Committee which does the preparatory work for the Council and processes all matters which come before it.

The Council also set up a Technical Committee which was charged with the preliminary arrangements for the first meeting of the Board of Governors of the World Fund and Bank and for the preparation of the organization and by-laws of these institutions. As a previous member of the technical group and a member of the Bretton Woods delegation, I was requested to participate in this committee also. I prepared drafts of by-laws and drafts of agenda which were incorporated in the final documents used in the Savannah meeting of the Board of Governors. The Technical Committee had meetings frequently during January and February of 1946, and finally came out with proposed by-laws and rules for the World Fund and Bank and agenda for the meetings of the Board. These documents were then distributed to the other nations who were invited to attend preliminary meetings in Washington and to submit their amendments to them. As a result of these meetings a consistent program was prepared for the first meetings of the Board of Governors which was held in Savannah (Wilmington Island), Georgia in March 1946.

Upon the authorization of the Commission, I attended this conference as an Adviser to the U.S. Delegation. I was assigned to assist in representing the U.S. on the By-Laws Committee. At this Conference I took occasion to discuss with representatives of several foreign countries the registration aspects of foreign investment. My notes of the Savannah Conference and of these conversations are incorporated in a memorandum which was forwarded to the Commission April 4, 1946.

Also at the beginning of 1946, the work was started on the marketing of the bonds of the International Bank. For this purpose two sub-committees were set up under the National Advisory Council, on which I was represented and on one of which I was named as chairman. This latter committee had charge of the making of the bonds of the Bank eligible for investment by insurance companies, savings banks and trustees. Under my chairmanship, the committee made a two-day trip to New York City and held meetings at the Commission's offices there. These meetings were attended by representatives of insurance companies, by representatives of savings banks and trustees and by commercial bank officers. The discussion concerned the plans of the Bank, kinds of bonds to be issued, the probable attitudes of institutional investors with respect to such bonds, and steps which would need to be taken by state authorities to make the bonds eligible for institutional investment. At the request of the institutional investors, a quasi prospectus was drawn up by this committee covering the Bank, which included the kind of information which investors would wish to have in the consideration of its bond issues. Copies of this prospectus have been forwarded to the Commission heretofore. Similar meetings were also held in Boston which were attended not only by representatives of insurance companies and savings banks, but also by the state commissioners there. The

committee also held meetings in Washington with representatives of investment bankers and also was in active communication with committees established for this purpose by the Investment Bankers Association and with representatives of the National Association of Securities Dealers. It has had conversations with officers of the New York Stock Exchange relative to the eventual listing of the Bank's bonds thereon. As a result of the committee's activities, an amendment was submitted and adopted by the New York State Legislature, and signed by the Governor, which made the bonds to be issued or guaranteed by the International Bank eligible investments for savings banks and trust accounts. The committee submitted several reports to the National Advisory Council, and upon the completion of its mission, adjourned.

The other sub-committee on marketing of which I was a member, also held some meetings relative to commercial bank participation in the distribution of the Bank's bonds. At these meetings question arose respecting the eventual registration of these bonds with the Commission and as to the participation of commercial banks as underwriters and distributors in them. The matter of registration had already been taken up with the Commission at my behest and a memorandum prepared thereon by the Commission's Solicitor. The Commission's deliberation indicated that it was the congressional intention that these bonds be registered under the Securities Acts. Subsequent questions as to liability of brokers, dealers and banks under the Securities Act was raised but has not as yet been definitively answered. This question will again be presented to the Commission in the near future, I believe.

The National Advisory Council Staff Committee holds sessions at least once a week and usually twice a week. These sessions usually consume at least half a

day and sometimes the entire day. Every question which is presented to the Council relative to foreign investment is given prior consideration in the Staff Committee which then prepares recommendations for the Council's action. The matters to which the Staff Committee's attention is directed have been so many and varied that it would be difficult to enumerate them within the compass of this report. Every action taken by the Export-Import Bank is first presented to this Committee. Upon request of the Commission, I can forward a copy of the Committee's minutes which would be the best detailed indication of the range of the subject matter considered by it. The reports of the NAC itself however will present an adequate summary of the matters considered.

In the deliberations of the Staff Committee I, as representing the Commission, have held forth primarily the interest of public investors in the United States and the relationships of the government to the private banking institutions. I have had occasion to submit to the NAC several memoranda on several aspects of these problems such as methods which might be employed by the Export-Import Bank and eventually the International Bank to avoid undue competition with private banking institutions. One of the methods outlined in this memorandum related to an adaptation of the competitive bidding procedure favored by the Commission in connection with public utility offerings. Copies of these memoranda have been forwarded to the Commission from time to time.

The Staff Committee's attention is now also being asked with respect to the activities of the International Monetary Fund and Bank, the loan policies which are pursued and the relationship of these institutions to U.S. Government and its financial agencies, as well as to the private capital markets. The NAC has a particular importance

with respect to the Bank and the Fund in view of the provisions of the Bretton Woods Agreements Act, and the fact that most of the financing by the Bank will probably take place in the U.S. markets for sometime to come.

Ancillary to the work of the National Advisory Council was the consideration of the loan application of the French Government. I was invited to participate in the discussions on this application and submitted several recommendations in the course of them. I was particularly interested in these discussions as they brought out the extent and kind of information which applicants for credit are prepared to submit to the U.S. Government. It occurs to me that the information so adduced might provide a guidance for the Commission as to the type and amount of information which it might reasonably prescribe in connection with offerings of foreign bonds to the public. It may be said that the information which our government asked was far more extensive than that required under Schedule B of the Securities Act.

Also part of the NAC Staff Committee's work is relegated to working groups which consider the particulars of loan applications. We have contributed to these working groups by submitting documents on the debt history and status of applicant countries and analyses of the capital markets' attitude with respect to their credit. For the first kind of contribution I have drawn upon the services of the Research Sub-Division of the Trading and Exchange Division under Mr. Irwin Friend, and for the second part, I have personally made inquiries in the New York financial community among my connections. However, because of the shortage of time and the pressure of duties I have been unable heretofore to participate in these working group deliberations to the extent that I consider desirable.

International Research

Under the direction of the Budget Bureau there has recently been formed a Federal Committee on International Statistics. I was invited to participate in the formation of this Committee and was subsequently named by the Commission as one of its representatives thereon--Mr. Friend being designated as another. The function of the Committee will be in part to advise the U.S. representative on the Economic and Social Council on research matters involving international trade and investment. The Committee is relatively new and has not developed a substantial program. At the request of the Bureau of the Budget, however, we have submitted a statement as to the contribution which the Commission might make to its work. This was incorporated in a letter forwarded in July 1946.

One of the principal contributions which I believe the Commission can make to the work of this Committee (as well as to the International Bank and to the National Advisory Council) is a survey of the principal foreign capital markets to which I alluded in my verbal discussion with the Commission last week. The undertaking of this project, however, will require additional manpower, and I shall refer to it in my recommendations below.

The Problem of Looted Securities

Even before the German occupation in Europe, this government, in collaboration with other friendly governments, was prepared to avoid the confiscation of property, particularly movable assets such as securities. Arrangements had in fact been

made in the European country which was the principal holder of American securities--to wit, the Netherlands, for the complete destruction of American issued securities in case of occupation. However, due to the unfortunate circumstance that the man who had possession of the keys to the vault in which the securities were located had fled to London, these plans were never carried out. It is known that the Nazis came into possession of large amounts of securities of U.S. issue in Holland, France, Germany, Belgium and elsewhere. These securities have also, it is known, had safe haven in countries such as Switzerland, Sweden, Portugal and the Argentine.

This problem, which has been known as the safe haven problem, involves gold and silver as well as securities, has been the subject of inter-departmental discussions in Washington for several years. Negotiations also have been undertaken with some of the countries involved such as Switzerland. It is the consensus of opinion, however, that only partially satisfactory solutions have been reached. I have participated in these discussions and several years ago prepared a rather lengthy memorandum setting forth my understanding and information on the subject and proposing a solution. This memorandum was made available to Mr. Louchlin Currie prior to his trip to Switzerland and more recently to Mr. Randolph Paul, who was appointed adviser to the President for the purpose of conducting discussions with the Swiss on the subject. Copies of this memorandum could be made available to those Commissioners who would be interested. I also had prepared a memorandum setting forth difficulties which the Commission had encountered during its more than ten years of activities from the laws and practices of the Swiss Government and its bankers. These difficulties related to all of the statutes administered by the Commission, and we pointed out specific instances which the

negotiators could use as arguments for the relaxation and amendment of these laws and practices. It is hoped that in the future a more amenable attitude will be taken toward the Commission's interests by the Swiss authorities.

Conferences and discussions relative to the looted securities and safe haven problems are continuing, and the subject will become even more important when the Foreign Funds Controls have been finally lifted. This would, without other action, enable the relaxation of looted securities in the U.S. markets. It may well be that the Commission will be called upon to formulate or advise as to what measures could be taken to prevent such relaxation through persons subject to its jurisdiction.

Suspended Axis Bonds

On the day following the attack on Pearl Harbor, the New York Stock Exchange suspended dealings in Japanese bonds. Later that day the dealings in German and Italian bonds were also suspended. This Exchange, as well as other Exchanges, felt that this was a temporary condition and asked the Commission's permission to reinstate dealings. This matter was referred to me and I discussed it with the General Counsel of the Treasury Department and through him with the Secretary of the Treasury. We felt unanimously that it would be a mistake to permit dealings in enemy bonds. We advised the Stock Exchanges of this opinion and also informally requested the brokers and dealers association to elicit the cooperation of their members to prevent transactions in the over-the-counter markets in such bonds. At first it was necessary to permit private trades which were made in order to establish tax losses. However, the Bureau of Internal

Revenue cooperated with us and ruled that Axis bonds could be entirely written off for purposes of establishing a loss without the necessity of a sale.

Cooperation of brokers and dealers has been very gratifying. This seems to indicate that the Commission has a control over the over-the-counter markets which it had not before anticipated. The only break in this situation has been the rather urgent request of a few of the dealers in New York who are primarily interested in foreign bonds. They have urged that the "ban" be lifted with respect to Italian securities in view of the present peace negotiations. Also, the New York Stock Exchange has inquired as to whether permission would be granted for readmission of these bonds to dealing. I had, during the past few years, numerous occasions to discuss this question with representatives of the State and Treasury Departments. It has been the unanimous opinion that to alter the present status would be a grave mistake. This opinion has been reported to the Commission from time to time which has supported this conclusion. The most recent of such conferences was held in June this year with State and Treasury representatives at which it was agreed that no further consideration would be given to the changing of the present status with respect to any securities of German, Japanese or Italian issue until peace treaties had actually been signed. It was then agreed that at the time of the signing of the peace treaties, consideration would be given as to what further steps should be taken.

The matter has again been brought to the Commission's attention by the New York Stock Exchange, and I have advised the Exchange of the position of the three interested agencies in the matter.

Registration of Foreign Government and Private Offerings

I have construed my duties with respect to registrations which come before the Commission to be that of a liaison officer between the Commission and other departments which might be interested in the foreign aspects of a new issue. I have therefore worked out an arrangement with Mr. Bane, the Director of the Corporation Finance Division, by which I am advised of all filings on behalf of a foreign issuer whether government or private, and also of conversations which take place looking towards such filings, I have from time to time received information on the actual filings. This arrangement is of an informal nature, and as the foreign financing in the private capital markets increases as it no doubt will, it may be well to establish a more formal procedure to assure the orderly processing of foreign registrations.

Besides the work of clearing the registrations with other agencies interested, the operation of the National Advisory Council requires that it be advised of any plans which agencies represented on it might know of foreign financing in the American markets. I have advised the Commission and Mr. Bane of the request of the NAC for such information and have forwarded to the Council particulars which I feel would be of interest to it. I have also personally taken to interested departments such as State, Civil Aeronautics Board and Office of Metals Reserve prospectuses which have been forwarded to me prior to action by the Commission. I find that these departments are frequently very helpful in either confirming or suggesting amendments and additions to the registration material. However, due to shortage of manpower, I have not been able to give these registration matters the attention which they deserve, but hope to be in a position to correct this. The Commission, I know, appreciates that the efficient

functioning of the processing of foreign registrations is of the utmost importance both to the Commission and the other interested government departments.

International Bank and the SEC

In addition to my activities in connection with the International Bank, I have had direct contact with the Executive Directors of the Bank and members of its administration. At their request I have prepared several memoranda covering matters in which they are interested primarily with relation to the marketing of its bonds and its connections with the investment banking community. I have submitted an outline to the Bank of the kind of organization which it should have for these purposes. I have also given the Bank a discussion of the problems which it will meet in connection with the U.S. securities laws and particularly the Securities Act of 1933 and the Securities Exchange Act of 1934. I have presented a written discussion to the Bank on probable rates of interest and other terms which might be available for its early financing. In recent weeks, at the request of the President and General Counsel of the Bank, as well as the U.S. Executive Director, I have entered into discussions with the staff of the Bank on some of the matters within the Commission's field of authority. As I advised the Chairman of the Commission, the Bank would like to start discussions on the substance of the registration which will be required. I have also advised Mr. Bane of this request and hope that he will be in a position to begin these discussions at an early date.

Also, I might mention the matter of open market operation which the Bank will wish to undertake in support of securities which it will issue. These operations might well involve a reconsideration of the Commission's rules on stabilization under Section

9(a)(6) of the Securities Exchange Act. The Bank, however, is not yet prepared to raise this question at this time.

I have not attempted to give an exhaustive account of my office as Adviser to the Commission on Foreign Investments, but have selected the most salient which have occurred to my memory. The presentation has been in accordance with the Commission's request of an entirely informal and personal nature.