

SPANISH RECOGNITION OF ALLIED CONTROL COUNCIL FOR GERMANY

Exchange of notes at Madrid October 28, 1946
Entered into force October 28, 1946

Department of State files

*The American Chargé d'Affaires ad interim to the Spanish Minister of
Foreign Affairs*

MADRID, *October 28, 1946*

EXCELLENCY:

I have the honor to refer to the various communications and conversations between Your Excellency, the British Ambassador, the Minister Plenipotentiary in Charge of the Delegation of the Provisional Government of the French Republic in Spain, and the Chargé d'Affaires of the United States of America, with reference to the recognition of the Allied Control Council for Germany as exercising the authority of the former German Government. In this connection I am instructed by my Government to advise Your Excellency as follows:

1. In accordance with Your Excellency's request there are attached authentic copies of the original English Texts of the documents constituting the basic juridical and political authority of the Allied Control Council for Germany. These documents are:

- a. The Act of Surrender of Germany, dated May 7, 1945;¹
- b. The Declaration of Berlin, dated June 5th, 1945.²

By virtue of Article IV of the Act of Surrender, Germany undertook to give effect to any general instrument of surrender which might later be imposed upon it.

This was imposed by the Declaration of Berlin of June 5th, 1945 under which the four occupying Allied Powers assumed all of the powers of the German Government, High Command, and any State, municipal or local government or authority of Germany. Concurrently, the four occupying Allied Powers agreed to exercise this authority through the Allied Control Council for Germany.

¹ TS 502, *ante*, vol. 3, p. 1123.

² TIAS 1520, *ante*, vol. 3, p. 1140.

2. My Government requests that the Spanish Government recognize the assumption of those powers by the Allied Control Council for Germany as described in the Declaration of Berlin, dated June 5th, 1945, annexed hereto. The immediate consequences of this recognition are deemed to be the recognition of the authority of the Allied Control Council for Germany with respect to the governmental assets, whether official or quasi-official, of Germany in Spain, its Possessions and Protectorates (hereinafter collectively referred to as "Spain"), and likewise that the Allied Control Council for Germany has, within the limitations imposed by the laws of Spain, no less authority than any previous German Government with respect to German subjects and their property in Spain. At the same time, my Government is mindful of questions raised by Your Excellency concerning the eventual disposition of certain assets and of the proceeds of assets, and is prepared to undertake general negotiations on this subject with the Spanish Government at the earliest convenience of the Spanish Government and the Allied Control Council for Germany, following recognition.

3. I am authorized by my Government to guarantee the Spanish Government that the first Government to succeed the Allied Control Council for Germany will recognize formally the validity of all actions taken by Spain at the request of the Allied Control Council for Germany.

4. My Government takes the position that such claims as the Spanish Government may present against Germany should be submitted in the general negotiations mentioned in Paragraph 2 which are to follow recognition and that such claims will be given consideration at that time; and that the Allied Control Council for Germany will assume, after its recognition by Spain as the Government of Germany, the rights and obligations incident to its status as a Government.

5. Upon the recognition by Spain of the Allied Control Council for Germany as the Government of Germany, the Spanish Government will adopt the necessary measures in order that the representatives in Spain of the Allied Control Council for Germany shall be considered as the Government of Germany with respect to the registration and disposal of property of the German Government, both official and quasi-official, situated in Spain. Such measures, which will include the delivery to the representatives of the Allied Control Council and the unblocking of such property, will be taken prior to and without prejudice to the general negotiations referred to in Paragraph 2 of this note and subsequent Paragraphs. It is understood that in doubtful cases, the public character of those assets or property indicated by the representatives in Spain of the Allied Control Council as belonging to the German Government will be investigated, and that on establishing such character they will be registered and regulated in the same manner as those referred to in the preceding sentences. It is similarly understood that until the negotiations referred to in Paragraph 2 of this note have been resolved, transfers abroad or investments of any class of German public property identified

in Spain will be effected only upon prior agreement between the Spanish Government and the representatives of the Allied Control Council for Germany. Excepted from the above provisions are expenses normal to administration and general expenses of conservation. To this end an account of the representatives of the Allied Control Council for Germany will be opened in an official banking establishment.

Both the Spanish Government and the representatives of the Allied Control Council for Germany will exchange detailed information relating to German assets held or known by either party to exist in Spain, including, on the above-mentioned account being opened, information regarding the origin and composition of the funds of every nature to be credited to the account and which are at present in possession of the Spanish Government or the representatives of the Allied Control Council; similar information will be reciprocally exchanged for any amount subsequently credited.

In the general negotiations referred to in Paragraph 2 and other sections of this note, the credits claimed by the Spanish Government against the German Government and those of the German Government against the Spanish Government will be examined.

6. Under the Declaration of Berlin, dated June 5th, 1945 annexed hereto, and in accordance with the Declaration of Potsdam, dated August 2nd, 1945,³ the Governments of the United States of America, of the United Kingdom and the Provisional Government of the French Republic are jointly responsible for the German assets within geographical limitations in which Spain is located. Accordingly, the above three Allied Governments will act as the Representatives in Spain of the Allied Control Council for Germany.

Accept, Excellency, the renewed assurances of my highest consideration.

PHILIP W. BONSAI,
Chargé d'Affaires, a.i.

His Excellency

DON ALBERTO MARTIN ARTAJO,
Minister of Foreign Affairs.

*The Spanish Minister of Foreign Affairs to the American Chargé d'Affaires
ad interim*

[TRANSLATION]

MADRID, *October 28, 1946*

Dear Sir:

I have the honor to acknowledge receipt of your note dated today, in which you inform me as follows:

³ *Ante*, vol. 3, pp. 1207 and 1224.

[For text, see U.S. note, above.]

I have the honor to inform you that the Spanish Government concurs in the foregoing.

I avail myself of this opportunity, Mr. Chargé d'Affaires, to renew to you the assurances of my distinguished consideration.

ALBERTO MARTÍN ARTAJO

Mr. PHILIP BONSAI

*First Secretary of Embassy,
Chargé d'Affaires ad interim of
the United States of America*