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DRAFT OF MEMORANDUM TO MR. SHEPARDSON
SUBJECT: THE NEED TO ABROGATE THE MADRID AGREEMENT

The Madrid Agreement has been in operation since November 1943. Its ratification was expected to produce a smooth and efficient working arrangement under which our intelligence activities could be continued in Spain in conformity with the wishes of Ambassador Hayes. In the ensuing fifteen months we have had ample time to test the results stemming from this understanding. These results clearly indicate that the Madrid Agreement must be abrogated if we are to produce the intelligence expected of us in Spain.

The following provisions of the Agreement have proved the ones under which difficulties arose and which ultimately led to the reduction of our SI mission in Spain to its present personnel from a total of thirty-one persons operating under cover of the State Department to its present number of nine.

Under "Functions" in paragraph 1 the following sentence appears:

"... So far as direct intelligence from Spain is concerned, SI operations will cover only such intelligence as may be requested or agreed to by the Ambassador and the Military and Naval Attaches, or be required by the Joint Chiefs of Staff with the concurrence of the State Department."

It is to be noted that a provision of this sentence requires a concurrence by the State Department of any request made of the OSS by the Joint Chiefs of Staff. This requirement, I believe,

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to a large extent makes void the basic principle of OSS as an intelligence organization. Its purpose is to serve the Joint Chiefs of Staff in securing intelligence from other than existing sources.

Paragraph 6 under "Functions" reads as follows:

"...Oss in Spain will not become involved in any activities embarrassing to the Embassy. The decision as to what is or is not embarrassing rests with the Ambassador, who should be kept currently informed of the nature of the activities in which OSS engages or plans to engage in Spain".

Ambassador Hayes has invoked his prerogatives under this provision to request the departure from Spain of our personnel, fearing that their activities might lead to embarrassment. In fact, after the liberation of Southern France he requested that all of our substation personnel located in such important cities as Barcelona, San Sebastian, Vigo, La Coruna, and Bilbao depart from Spain, leaving these important areas without intelligence coverage.

Paragraph 6 under "Organization and Personnel" reads as follows:

"Hence in cases where the Ambassador has reason to believe that a certain individual is connected with OSS, and that his activities in Spain are likely to cause embarrassment to the Embassy, the Director of OSS in Spain will, upon the Ambassador's request, inform him whether or not the individual in question is in fact connected with OSS."

This provision nullifies the effective use of having persons under private cover. The security of the Embassy has proved not to be as efficient as the security of our OSS office. It may be correctly deduced that if the Embassy is aware of the

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presence of ^{an} OSS under-cover operator, it is only a matter of a short time before the man is uncovered.

Paragraph 5 under "Coordination" reads as follows:

"The Ambassador has been authorized by the State Department, with the concurrence of OSS, to examine all incoming and outgoing correspondence transmitted through the Embassy. He will exercise this right to the extent he considers necessary."

This paragraph is linked to the objections raised to provisions contained in paragraph 6 under "Functions". With authority to examine operational pouch material, the Ambassador places himself in the position of knowing of the existence and perhaps the identity of "private cover" OSS representatives, and therefore the chances of his becoming embarrassed are greatly increased. The Ambassador should be in the position to disavow these private cover Americans, and this can most effectively be accomplished by his not knowing of their existence, which, in turn, can only be attained if the operational material of both incoming and outgoing pouches is deprived him.

The extent to which the flow of intelligence information from Spain has declined may be illustrated by saying that in the month of August 1943 a total of 204 Spanish intelligence reports were received compared to eight reports in December 1944.

The Embassy have, since the Madrid Agreement, placed a ban on our Madrid office sending documents which (a) are not in accord with facts available to the Chancery or (b) which deal with a situation that the Embassy describe as "miscellaneous political reporting". This, the Embassy states, is strictly reserved to the Chancery officers.

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Recent incidents have been reported to us citing:

1) a letter, sent by Mr. David McK. Key, American Consul General, Barcelona to Ambassador Hayes, submitted as an attachment for your consideration, is largely self-explanatory. The point to be emphasized is that it was received January 6 by the Ambassador but did not reach our representative's hands until January 23. Paragraphs 1, 2, and 4 of the letter in question are considered most important subjects.

2) The relations between our SI office and the Naval Attache have been on a very cooperative basis. However, when the Embassy became aware of the close working arrangements between the two offices, it forbade the further exchange of reports.

3) At the time our SI Barcelona representative was withdrawn arrangements were made to continue communications between these two agents and our Madrid office through the X-2 representative in Barcelona. However, when the Embassy heard of this, it not only forbade the communication arrangement, but even forbade contact with the X-2 man, fearing, as the Embassy described it, "SI contamination."

If our maximum effort is to be achieved in Spain a new basis of understanding should be arrived at with Mr. Armour in this connection, the ideal solution being the working arrangement that has proved so successful in Sweden and Switzerland, the pattern of which I understand has been recommended to the Department as a basis for future operations in all neutral countries.

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