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FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

SECURITY: CONFIDENTIAL

PRIORITY: AIR POUCH

TO : DEPARTMENT OF STATE

202.0041/5-350

FROM : HICOG - FRANKFURT 773 May 3, 1950

2 Enclosures

REF : Depts A-561, April 15, 1950

SUBJECT: French Proposal on External Restitution Program

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May 6

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French proposal on external restitution program, presented to the High Commission on March 27, 1950, is attached hereto as enclosure No. 1 (HICOM/P(to)57).

The proposal, at suggestion of restitution personnel on British and U. S. sides, was referred to Property Sub-Committee and discussed by it on April 13, 1950 and again on April 27th.

American position at April 13th meeting was stated as follows:

a. to obtain tripartite agreement for the termination of all restitutions activities through administrative procedures as of 30 September 1950, with a provision that properties for which releases have been issued prior to that date will be delivered to the claimant nation.

b. that the date of 30 September 1950 will not affect existing agreements between the occupation authorities and other governments which concern rolling stocks and inland waterways transport craft.

c. that the date of 30 September 1950 will not affect the existing policy in the U. S. Zone concerning receipt of claims for cultural objects of considerable value or importance to the cultural heritage of the claimant nation.

d. that the date 30 September 1950 will not affect the settlement of claims for compensation filed prior to that date.

e. that the principle of restitution of properties looted from occupied countries resulting from the London declaration of 5 January 1943 remains unchanged.

f. that the date of 30 September 1950 will not affect the delivery of monetary gold uncovered in Germany to the tripartite gold commission in Brussels pursuant to existing international agreements.

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g. that, upon failure to obtain tripartite agreement for the 30 September 1950 suspension date, the U. S. High Commissioner inform the other High Commissioners that the restitutions operations in the U. S. Zone will continue under our present policy, and that they will be informed when the operations are completed.

British made no definite commitment beyond stating that they regarded program as having been concluded, so far as acceptance of claims was concerned, on March 31, 1950, and that this position included claims for cultural properties. They indicated that matter would be referred to superiors, and that in reference, the American position looking to completion all restitution activities (except cultural properties) by September 30, 1950 would be taken into account.

French at April 13th meeting attempted to minimize difference in practice in their Zone and U. S. Zone, and orally stated intention to modify the written French proposal to limit it only to art and cultural objects. They further offered to produce a new paper at subsequent meeting, reflecting this position.

1. In commenting, we emphasized American intent to limit our consideration in cultural claims to those having considerable value or importance to the cultural heritage of the claimant nation and reiterated our strong feeling that foreign representatives not be permitted free access to U. S. Zone for purpose of independently
2. investigating real or alleged claims for restitution.

The meeting appeared to reflect a feeling of reasonable harmony of view on most points as expressed by the representatives present.

No new developments occurred at the April 27th meeting. However, the problem appeared to be somewhat complicated by the receipt of a new letter from Chancellor Adenauer concerning a German proposal for the establishment of a central agency for the coordination and evaluation of restitution claims for cultural objects. This letter, dated April 12, 1950 and addressed to the Chairman of the Allied High Commission, was, at our suggestion, referred by the Economic Committee on April 26 to the Property Sub-Committee. The paper is attached as enclosure No. 2 (AGSEC(50)743).

Our preliminary Statement on the Adenauer letter indicated only that we would give it careful consideration, although we had reservations concerning parts of the proposal. The British and French both

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appeared to be rather favorably inclined to the proposal, at least in the sense some such organization might serve a useful purpose.

It is intended to discuss this matter further with Mr. Heinrich upon his return here after May 3rd. Mr. Heinrich is familiar with the basis for the new proposal and has discussed some aspects of it with the persons named in Mr. Adenauer's letter.

Our further views on the Adenauer letter will be communicated to the Department in the near future, as well as further developments in the proposal submitted by the French.

Enclosures:

- 1. HICOM/P(50)57)
- 2. AGSEC(50)743)

FRANK J. MILLER  
 Chief, Property Division  
 Office of Economic Affairs

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RGS 9  
 Lot 62D-4  
 Box 20

7-6-77  
 AUTHORITY NND 968071  
 BY JMW NARA Date  
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T R A N S L A T I O N

(Br/447/50/VRF/W)

FEDERAL REPUBLIC OF GERMANY

BONN, 12 April, 1950

OFFICE OF THE CHANCELLOR

7312/2959/50

His Excellency,

General Sir Brian H. Robertson, Bart.,

Chairman of the Allied High Commission,

Bonn-Petersberg

Mr. High Commissioner,

I have the honour to inform your Excellency that for the purpose of dealing with matters of restitution of works of art Germany has formed its own committee of experts.

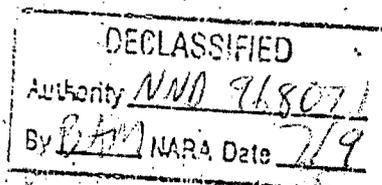
The decision to establish this German committee was reached on 20 April, 1949, by the permanent conference of the Ministers for Cultural Affairs. Staatssekretär Dr. Dieter S a t t l e r of the Bavarian State Ministry for Education and Cultural Affairs has been appointed Chairman. As representatives of West German activities in art conservation, the following experts are members of the committee:-

Prof. Dr. Ludwig Heinrich H e y d e n r e i c h,  
Head of the Institute for History of Art,  
Munich,

Prof. Dr. Ernst H o l z i n g e r,  
Director of the 'Städel' Art Institute,  
Frankfurt/Main,

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Prof. Dr. Kurt M a r t i n,  
Director of the 'Kunsthalle',  
Karlsruhe,

Prof. Dr. Franz Graf W o l f f - M e t t e r n i c h,  
'Provinzial-Konservator' of Rhine Province,  
Bonn.

Since 1945 the Military Governments have been solely responsible for carrying out restitutions of works of art which are unlawfully in Germany. I realise that in Art. 2 b of the Occupation Statute the Allied High Commission reserved to itself special powers in this field. On the other hand, the German experts are convinced that they are able to give no inconsiderable assistance to the responsible Allied agencies in the final settling of matters of restitution, particularly as regards the clearing up of restitution claims which have not yet been met. By establishing the German committee mentioned above, this assistance is to be made more readily available. Furthermore, it is to be expected that in connection with the question of restitutions, claims for compensation will be brought within Germany by German nationals against the legal successors of the Reich, claims which, from the experts' point of view, have to be dealt with by a German committee of experts. I am anxious to emphasise that the Committee pursues no political aims whatever, but only wishes to be ready to assist in settling the whole restitution matter as speedily, comprehensively and expertly as possible.

Restitutions, which have so far been made, were dealt with by the individual Military Governments independent from each other. The fact that no central agency exists through which the whole of the documentary material could be co-ordinated and evaluated, makes it difficult to

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obtain a general picture of restitutions which have already been made and of those claims which have not yet been met. In the interest of restitution claims which have not yet been met as well as in the interest of reaching a settlement of the purely German aspects of this question, the experts of the German Committee for Restitution consider the establishing of such a central agency as urgent.

I would ask the Allied High Commission to examine whether on its part approval could be given to establishing such a central agency and whether the German Restitution Committee could be authorized to participate in the work of this central agency together with the responsible Allied authorities.

In view of the fact that the Central Collecting Point in Munich possesses the largest collection of documentary material on settled restitution claims, the German experts have asked me to suggest Munich as the seat of this central agency.

I beg your Excellency to accept the assurance of my high esteem.

(signed) ADENAUER

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5/15/50

**SECRET**

121 - Miss Hall

Attached are excerpts from the Policy Directive to McCloy, which relate to restitution & which you may find of use in consideration of current problems and your papers.

WTC

**DIVISION OF LIBRARIES AND INSTITUTES**

**MAY 16 1950**

**DEPARTMENT OF STATE**

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By RAM NARA Date 7/9

SECRET

WGA D-3e

November 17, 1949

PAPERS ON WESTERN GERMAN ARRANGEMENTS

Policy Directive to the United States  
High Commissioner for Germany.

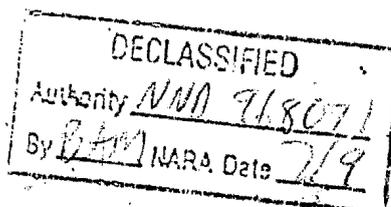
(4) b. With respect to external restitution, you should return identifiable looted property, other than gold and rolling stock, to the government of the country from which it was taken, with the exception of property claimed independently by non-nationals or refugee nationals of claimant countries, under the existing operating instructions of your Government. You should also: (1) endeavor to obtain tripartite agreement on a date, preferably not later than September 30, 1950, for the termination of all restitution activities (other than special cases of materials important to the cultural heritage of the claimant country). (2) deliver monetary gold uncovered in Germany to the Tripartite Gold Commission in Brussels pursuant to existing international agreements; (3) effect the disposition of non-German rolling stock found in Germany at the end of the war in accordance with applicable agreements and such instructions as may be issued as the need arises; (4) pursuant to existing agreements, deliver to the appropriate agency valuable personal property looted from Nazi victims which is not restitutable.

c. With respect to internal restitution, it is the policy of your Government that persons and organizations deprived of their property as a result of National Socialist racial, religious, or political discrimination should either have identifiable property returned to them or be compensated therefor, and that heirless and unclaimed property subject to internal restitution should devolve to appropriate successor organizations. To carry out this policy, you should seek agreement from your British and French colleagues to persuade the German Government to enact without delay a Uniform Internal Restitution Law, which should grant to claimants, to the greatest possible extent, all substantive rights now available to them under United States Military Government Law No. 59. The German Federal Government, or, in its discretion, the Land governments should be responsible for the execution and administration of the Law, subject to review by non-German appellate Tribunals. These Tribunals would be the supreme appellate authority for cases arising under the Law; they should be appointed by the Allied High Commissioners and should act by majority vote. Until the Law becomes effective, the Land governments should continue to execute existing military government restitution laws, subject to minimum necessary policy control and supervision as presently exercised by the occupation authorities.

Closely related

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Closely related to the problem of restitution is the problem of indemnification of persons who suffered personal damage or injury through national Socialist persecution because of racial, religious or ideological reasons. It is the policy of the United States Government that these persons should receive indemnification in German currency for such injury or damage. The Laenderrat of the United States Zone has recently promulgated legislation of this nature. Together with your British and French colleagues you should urge the German Federal Government to enact appropriate legislation in this field.

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By <u>RAM</u> NARA, Date <u>7/9</u>

OFFICE OF THE US HIGH COMMISSIONER FOR GERMANY  
Office of Economic Affairs  
Property Division  
Wiesbaden Central Collecting Point  
APO 633

Wiesbaden, Germany  
(May 31, 1950)

Der Hessische Minister  
Für Erziehung und Volksbildung,  
Wiesbaden,  
Gustav-Freytag-Str. 4  
Attn: Oberreg. Rat Dr. Nothnagel

Dear Dr. Nothnagel,

Re.: XII Treuhandverwaltung vB/Fl

With reference to the altar piece from the church U.L. Frauen in Halle a.S. I am sorry to have to ask you to inform the church authorities that we must still withhold permission to return the painting to the church. We are sensible of its meaning to the petitioners and that the gesture of its return might have a good effect locally. However, in the absence of any agreement for exchange of displaced cultural objects between the Western Zones and the Soviet Zone it is felt that an exception to the present prohibition might provoke unfortunate consequences.

It might be worth your inquiring whether there is an altar piece or other church ornament of comparable nature belonging to a church in Hesse but at present held in custody in the Soviet Zone. If this were the case it might be possible for a direct exchange to be arranged through church authorities which would not directly involve either the High Commission or your Ministry. Unless some such solution could be found, it appears that no return is possible at the present time. You may take it for certain that no serious discussions toward establishing an exchange agreement will be undertaken until the Soviet authorities give a satisfactory accounting of the Dresden and other collections removed from the Soviet Zone.

Yours very truly,

THEODORE A. HEINRICH  
Cultural Affairs Adviser

Tel.:  
Wiesbaden 21279

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Authority <u>NWD 75057</u>
By <u>T</u> 11199

OFFICE OF THE ATTORNEY GENERAL  
OFFICE OF PROPERTY RIGHTS  
OFFICE OF THE HIGH COMMISSIONER

56  
RG 260 BOX 7  
ENTRY 1

**Der Hessische Minister  
für Erziehung und Volksbildung  
HESSISCHES STAATSMINISTERIUM**

*Der Minister für Kultus und Unterricht*

XII - Treuhandverw. - vB/F1

WIESBADEN, den 30. Mai 1950  
~~RECHNUNGSNUMMER~~ Gustav Freytag-Str. 4  
Telefon: Sammel-Nr. 99911  
23563 u. 26406  
25519

An  
die Hohe Kommission für Deutschland  
Office of Economic Affairs  
Property Division C.C.P.  
z.Hd. Mr. Heinrich

W i e s b a d e n

Betr.: Rückgabe eines Altarbildes der Kirche U.L. Frauen in Halle a.S.  
Bezug: Meine Schreiben v. 24.10.49 und v. 2.1.50.

Die Kirchenleitung der Evangelischen Kirche in Hessen und Nassau bittet mich noch einmal wegen der Freigabe des Altarbildes aus der Kirche U.L. Frauen in Halle bei Ihnen vorstellig zu werden.  
Für eine Entscheidung in dieser Frage wäre ich sehr dankbar.

Im Auftrag:

(Dr. Nothnagel)  
Oberreg. Rat

3449 120000 3.48. O.Z.

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By T 11129

A portion of a CONFIDENTIAL letter of July 14, 1950, to Mr. H. K. Dreman from Bill Daniels.

Dear Ken:

... The cultural property situation is still bogged down badly. The Department is particularly anxious to speed up the processing of the Alt Aussee Art Collection at Munich but there are at present only two art experts of the Bavarian Government working on this project. Heinrich has just hired a German art historian for this work, filling in a vacancy on Dickerson's staff. In addition, a volunteer is coming to Germany for a brief period who will assist Heinrich as will a 3 to 6 month assistant for whom an FSS-5 or 6 position has been approved. Heinrich's position was reclassified to an FSS-3 and recruiting is also going on for his successor to replace him when he leaves November 30, 1950. Miss Hall is recruiting for these positions and you might ask her what the prospects are. An unpleasant situation has developed from demands made by the Berlin Magistrat for return of the Berlin collections to that city. Festivals are planned in Berlin for September and October and the Berlin Kommandants have requested the High Commission to use its influence to secure a suitable number of the Berlin paintings for exhibition there on a temporary basis. The Berlin people have submitted a list of 151 paintings which they insist are necessary to make the thing worthwhile. Of the 151 paintings 51 are now on exhibit in Amsterdam and are scheduled for exhibit in Brussels starting September 15. 9 paintings are scheduled for exhibit in London and 12 are considered too fragile for transporting. Everybody in Berlin, from the Kommandants down, are complaining about our lack of cooperation. Ted says the Magazinbau is the only building in Berlin suitable for the paintings and it won't be ready until October 1 and can't show more than 90 items to any advantage. We are planning to offer 70 paintings on Berlin Magistrat list plus 20 others and hope everyone will be reasonably satisfied. In this connection will you please confirm, if possible, existence or non-existence of governmental agreement re return of Berlin paintings to Berlin referred to in our telegram 3181 (CN 5987) dated April 17, 1950 to Department. Get copy if available. I am somewhat disturbed by the fact that we have 120 paintings from Wiesbaden now on exhibit in Amsterdam (of which 51 are among those demanded by the Berlin people. I knew nothing of the arrangements for the international exhibit of these paintings until Ted suddenly took off for Amsterdam last month. As far as I can determine, the international exhibit

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By <u>BAM</u> NARA Date <u>7/9</u>

of German art is not among the responsibilities or functions assigned to this Division. Baldwin of the Office of Public Affairs says these arrangements were made at high governmental level. Please see if you can find out anything about them. Ted says he made the arrangements more or less on his own, on the assumption that it was a carried-over function from OMGUS which came to us when we took over cultural properties. I think we can justify the present Amsterdam and Brussels exhibits on the grounds that arrangements and commitments had already been made when Property Division took over (although I don't find anything in MGR Title 18 or other OMGUS directives providing for this activity). Ted and I have agreed that no further international exhibits will be carried out til this function is regularly assigned as a responsibility of the Property Division. In view of the bogged down state of our cultural property disposition program generally and the seriousness of the Munich situation in particular, I do not see how we can spend time on international exhibits unless assigned additional personnel along with the function. ...

(Signed) Bill

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*Cultural Prop.*

Office of the Executive Secretary  
APO 757

Frankfurt, Germany  
*June 21, 50*

Mr. George Eric Rosden  
1025 Vermont Avenue, N. W.  
Washington 5, D. C.

Dear Mr. Rosden:

The questions raised in your letter of April 22, 1950 have received most careful consideration and I am instructed to give you the following information.

Although it is true that certain cultural properties deriving from the NSDAP and its former leaders have been placed in the physical custody of the Bavarian State, the custodianship operates under necessarily severe restrictions and no authorization has been granted for their dispersal. It is unlikely that such authorization will be granted in the near future. The immense task of processing outstanding claims and searching the history of each object concerned is still far from having been completed. The United States Government is under obligation ultimately to return to the Austrian government all unidentified materials from one large block of this property which had been transferred to Munich from Austrian territory. Five other governments have registered their intention to claim replacements in kind out of the residue. Consequently no disposition can be made until this question is settled, probably as a part of the Peace Treaty.

In the meantime, you are no doubt aware that restitution is a reserved power under the Occupation Statute and therefore no discretion or interference in this problem is permitted to the Bavarian State or any other German agency except with the express authorization of the United States High Commissioner. Agents of the Bavarian State may not therefore properly negotiate or discuss with the representatives or agents of foreign governments matters pertaining to the external restitution of cultural objects. Until such time as we may deem such restitution to have been completed or choose to delegate our authority, all matters pertaining to the property in question must remain subject to our control and the records thereof must remain privileged matter.

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8845 - June 14- 50

W. G. DANIELS - SUBJECT FILE

ENTRY 1  
Pg 260 BOX 58

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The official custodian does in fact possess complete lists of this material, but because they are necessarily classified as confidential, their circulation has been prohibited. The appropriate Bavarian officials are working with us to complete the task of identification, but you are asked to understand that such questions as determination of restitutability are strictly the concern of the United States High Commission and not of the Bavarians or any other German agencies.

The implication of your letter that no thorough investigation has been undertaken is without foundation. An expert staff has already been engaged on this task for five years and the work is proceeding as rapidly as is consistent with the absolute accuracy required. Incidentally the value which Dr. Auerbach has been quoted as placing on this property is grossly exaggerated. We assume he has confused this fraction of the former holdings of the Munich Collecting Point with an estimate once placed on the total.

We appreciate the problems faced by your client, but the High Commissioner is not prepared, in view of the multiplicity of still unresolved restitutions and other claims, to make any alteration in the present arrangements for the liquidation of the store of cultural property at the Munich Collecting Point. This is therefore considered a province in which your client's interest is inappropriate.

Very truly yours,

ERIC G. GRATION  
Staff Secretary

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By

REPRODUCED AT THE NATIONAL ARCHIVES

**INCOMING TELEGRAM**

# Department of State

TELEGRAPH BRANCH

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Rec'd: December 10, 1950  
12:55 a.m.

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FROM: London  
TO: Secretary of State  
NO: SIGTO 366, December 9, 7 p.m.

SENT DEPARTMENT SIGTO 366, REPEATED INFORMATION FRANKFORT 605, PARIS UNNUMBERED.

Pursuant request US representative, restitution committee has reconsidered paragraph A (1) of interim report (SIGTO 298, November 23, repeated Frankfort 443) and has agreed to following revision:

"Enactment by FEDREP of satisfactory legislation and establishment suitable administrative machinery for recovery and restitution (A) of cultural property, and (B) of jewelry, silverware and antique furniture of substantial value, provided that claims for such property have already been submitted to and not rejected as not being valid by occupation powers."

Believe separation two types property now makes quite clear that phrase of "substantial value" modifies jewelry, silverware and antique furniture (re Frankfort 4695 December 5 repeated London 386 and TOSIG 301 December 7 repeated Frankfort 4121. Also believe addition new requirement re prior submission and non-rejection of claims eliminates possibility lack of good faith (re Frankfort 4322, November 22, repeated London 339).

Committee has reached tentative agreement on following definition of terms:

1. "The term cultural property shall include all moveable goods of importance or value, either religious, artistic, documentary, scholarly, or historic. This definition includes ancient or modern works of art, as well as such objects as rare musical instruments, books and manuscripts, scientific documents of historic or cultural nature, and all objects normally found in museums, public or private collections, libraries and historic archives."

Foregoing

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-2- # SIGTO 366, December 9, 7 p.m., from London

Foregoing definition follows Military Government regulation title 18, paragraph 101 except for amendments requested by French representative. Only amendment of real substance is deletion of phrase "the disappearance of which constitutes a loss to the cultural heritage of the country concerned." French fear that retention this phrase might give rise to disputes with Germans; that Germans might point to contents of Louvre as justifying position that cultural heritage of country is subject to change by military events; and that French should not have to satisfy Germany as to what constitutes a loss to French cultural heritage, be it indigenous or a Napoleonic acquisition. Committee believes other provisions title 18 not appropriate or necessary for inclusion in commitment to be required by FEDREP. US representative has reserved position pending Department's instructions.

2. "Substantial value" should be 100 pounds sterling (approximately 100,000 French francs) in 1950 values (prior hereto UK and French representatives had insisted on 50 pounds sterling which US representative considered too low).
3. "Antique" shall mean furniture more than 100 years old.

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HOLMES

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By AT NARA Date 7-8-99

Rs 59  
Entry 62D-4  
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**INCOMING TELEGRAM**

# Department of State

TELEGRAPH BRANCH  
CONFIDENTIAL

A

23  
Action  
GER

Control: 2362  
Rec'd: December 5, 1950 }  
8:04 p.m.

**FROM:** Frankfurt

**TO:** Secretary of State

**NO:** 4695, December 5, 10 p.m.

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SENT DEPARTMENT 4695; REPEATED FOR INFO LONDON 386.

After discussion Baker re compromise language external restitution cultural property, no substantial difference ISG and HICOG position contained SIGTO 271 repeated Frankfurt 399, November 17, and our telegram 4322 repeated London 330, November 22. Baker will seek agreement restitution committee definition cultural property as contained Title 18. Baker will also clarify in committee that phrase "of substantial value" modifies silverware and jewelry as well as antique furniture.

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LMS:BBB

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**INCOMING TELEGRAM**

*Department of State Hall*

13

**TELEGRAPH BRANCH  
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Action  
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Control: 8206  
 Rec'd: November 17, 1950  
 12:47 p.m.

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**FROM:** London  
**TO:** Secretary of State  
**NO:** SIGTO 271, November 17, 4 p.m.

SENT DEPARTMENT SIGTO 271, REPEATED INFO FRANKFORT 399,  
 POUCHED PARIS.

In discussion external restitution, foreign representative on restitution committee advanced previous French position that in addition cultural property, Federal Republic should be required assume continuing obligation make restitution [jewelry, precious metals, and radium.] UK representative supported French.

US representative objected for reasons stated in recommendation (2), ISG D-1/16. He offered concede on gems, but stressed undesirability covering precious metals and radium.

French representative replied he was most desirous bringing end disagreement this point, that he would accept US position that properties essential to German economy must not be included in Federal Republic commitment, and that he was prepared work out formula based on that principle.

Discussions have resulted following agreement in committee:  
"Federal Republic shall enact satisfactory legislation and establish suitable administrative machinery for recovery and restitution (A) cultural property, and (B) jewelry, silverware, and antique furniture of substantial value"

French representative is returning to Paris November 24 for consultation and believes he can persuade his government to accept. Would be most helpful if we could advise French representative prior his departure that US will accept. Although (B) is broader than specific concession in D-1/16, we feel it is consistent with our basic position.

[HOLMES]

MJF:RT

TELETYPE UNIT

DEPARTMENT OF STATE

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100264

*OKed  
 by  
 Dept  
 aRH.*

RG 260 BOX 85  
ENTRY 1

16, Wiesbaden, Landesmuseum  
Property Division  
Wiesbaden Central Collecting Point

Wiesbaden, Germany  
December 14, 1950

To  
CUSTOMS AUTHORITIES

This will certify that there are no objections to the export by Mrs. Carola K I L P, United States citizen, at present at Frankfurt/Main, Ginnheimer Landstrasse 165, upon her return to the United States, of

1 Madonna Gothic, carved in wood, about 1450.

This object is not subject to control under external or internal restitutions laws and may be freely removed from Germany.

THEODORE A. HEINRICH  
Cultural Property Adviser

Tel.:  
Wiesbaden 21279

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Authority <u>MVD 728057</u>
By <u>CA</u>

DEPARTMENT OF STATE  
WASHINGTON

Dec 18, 1950



Dear Ardelia:

I have asked our office to send to you today through the American Consulate in Nassau a copy of HICOG's Confidential Despatch No. 1952 of December 11.

The reason for bothering you with this official business on your leave is that HICOG wants a quick answer on certain principles to be applied in the disposition of the remaining items of the Aussee collection at Munich. Droman, who drafted the Despatch, says that the Munich Collecting Point is now in pretty fair shape for Faison to begin his operations. Separate property cards (approximately 18,000) are being prepared from the records at Munich and Wiesbaden for the entire 10,733 properties received from the Austrian repositories. It has been determined that there remains for disposition 4,357 items for which cards containing all available identifying data have already been prepared. Droman goes on to say that only 20% of the residual properties involved can be positively identified and that for the remainder it is imperative that agreed tests to permit grouping in the categories be adopted. What he is trying to do is to select out properties which are:

- a) indisputably German
- b) considered German
- c) indisputably non-German; and
- d) questionable (require further evidence).

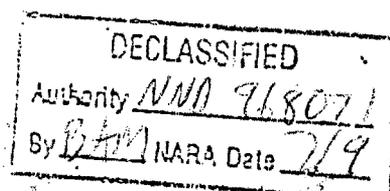
if

Droman concludes by stating that/the tests which he suggests in his Despatch are agreed upon and at least one U.S. staff member devotes full time and effort exclusively to Munich, the classification and identification of the 4,357 items would be completed by April 1, 1951, which should permit completion of all phases of the project within the overall target dated July 1951.

Miss Ardelia R. Hall,  
c/o Mrs. John Bancroft  
Kenmuir, Nassau,  
Bahamas.

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R6 59  
Lot 620-A  
Box 28



Since your advice on this problem is essential and since we want to get a reply to HICOG as quickly as possible I should very much appreciate hearing from you before the end of the year so that I can coordinate a reply here. I hope that this will not prove too inconvenient or burdensome for you.

I hope that you are having a good time. With best regards,

Sincerely,



Alex Kiefer

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R6 59  
Lot 620-4  
Box 28

DECLASSIFIED  
Authority NND 918071  
By *RAM* NARA Date 7/9

RG 260 BOX 85  
ENTRY 1

KARL-FRITZ URBAN]

GIESSEN,  
Liebigstrasse 70.

The [Office of the  
HIGH COMMISSIONER/  
for GERMANY,  
Property Department,  
Central Collecting Point,  
WIESBADEN,  
Kaiser/Rheinstrasse,  
ATTN : MR. THEODORE A. HEINRICH,  
Cultural Affairs Adviser.

[16 January 1951].

SUBJECT : Application for Export from Germany of Objects with  
cultural value.

Dear Sir,

As representative of my Parents in Germany. I desire to apply to your Office for permission that the export will be granted for the rightful property of my Parents, Karl and Karin URBAN, to their permanent residence in Sweden. As stated by the Property Control Office for Hesse, Land Civilian Agency Head, your Office will have the privilege to give permission for the export of property which has a cultural value.

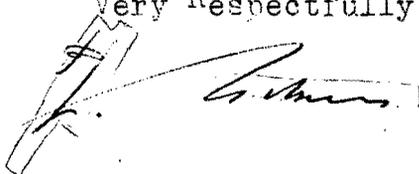
The objects having cultural value, which were in the possession of my Parents before the date of 1 September 1939, are mentioned in attached list of cultural items as an annex to the application form.

It is kindly requested that your Office decides on the export of said objects. In addition the Undersigned kindly asks for return of the application form, one Copy of attached list, and the sworn statement with the name of the Undersigned which is for the purpose of further transmittal of these documents to the Land Civilian Agency Head. For the support of this application the application form (Incl #1), 2 copies of the objects for export (Incl #2), one sworn statement by owners in Sweden (Incl #3), one sworn statement by the Undersigned (Incl #4).

Your action on this export application would be highly appreciated.

Very Respectfully,

4 Incls. a/s.  
(Incl # 2 in dup.)



100268

DECLASSIFIED
Authority <u>MWD 725057</u>
By: <u>CS</u>

RG260 BOX 85  
ENTRY 1



OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY )

BERLIN ELEMENT  
Economic Affairs Division  
Property Control Branch  
APO 742

Berlin, Germany  
22 January 1951

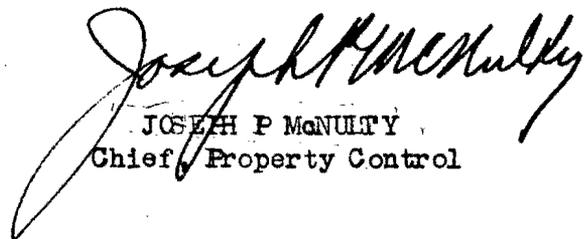
HICOG, OEA - Property Division  
Wiesbaden Central Collecting Point  
Attention: Mr. Theodore A. Heinrich  
APO 633, Wiesbaden, Germany

Subject: Export of personal effects

Gentlemen:

Attached hereto, please find 5 copies of an application for the export of personal effects belonging to Elisabeth Maria FORBES, Long Beach. Inasmuch as jewelry is concerned by it, we would ask you to indorse the application forms and to return them to this Office.

Very truly yours,

  
JOSEPH P. McNULTY  
Chief, Property Control

Encl. a/s

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Authority <u>MVD 728057</u>
By <u>SA</u>

RG260 BOX 85  
ENTRY 1

16, Wiesbaden, Landesmuseum  
Property Division  
Wiesbaden Central Collecting Point

Wiesbaden, January 22, 1951

Mr. Karl-Pritz Urban  
Liebigstrasse 70  
Giessen

Sir:

We are returning you herewith the approved application for the export of art objects with the statement that this office has no objection to the export of the items mentioned in your list.

Very truly yours,

THOMAS C. HOWE, Jr.  
Cultural Affairs Adviser

Enclosures.

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Authority <u>MVD 725057</u>
By <u>CAA</u>

RG260 BOX 85  
ENTRY 1

Office of Economic Affairs  
Property Division  
Wiesbaden Central Collecting Point  
APO 633

Wiesbaden, January 26, 1951

Office of the United States  
High Commissioner for Germany/  
Economic Affairs Division  
Property Control Branch  
Berlin, APO 742

Attention: Mr. Joseph P. McNulty, Chief

Dear Mr. McNulty:

Returned herewith are the approved application forms in quintuplicate of Mrs. Elisabeth Maria FORBES of Long Beach, California, for the export of personal jewelry.

Very truly yours,

THOMAS G. EGWE  
Cultural Affairs Adviser

Enclosures:

5 Application Forms.

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Authority MVD 725057  
By *SM*

DECLASSIFIED

Authority WMP962071  
By AT NARA Date 7-8-99

Rs 59  
Entry 62D-4  
Box 28

I.G.C. (50)192

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15th December 1950

INTER-GOVERNMENTAL STUDY GROUP ON GERMANY

FINAL REPORT OF THE RESTITUTION

TO THE STEERING COMMITTEE

The Restitution Committee submits the following report to the Steering Committee on the reserved power for restitution.

I. The Committee has agreed that the conditions necessary for the relinquishment of the reserved power should include the following:-

A. Conditions entailing action by the Federal Government before the relinquishment of the reserved power

1. (a) Enactment by the Federal Government of legislation and establishment of suitable administrative machinery for the recovery and restitution of

(i) Jewellery, silverware and antique furniture of substantial value, provided that claims for such property have already been submitted to, and have not been rejected as not valid by the Occupying Powers.

(ii) Cultural property.

Definitions of the property in (i) and (ii) above are given in Annex A to this report.

(b) In the administration of its legislation the Federal Government shall apply the tests of restitutability which were applied in this field by the High Commissioners.

2. Enactment by the Federal Government of legislation to remove all legal obstacles to recovery under German Law of looted property; the period of prescription in German law

for acquiring

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for acquiring good title shall run from 8th May, 1945.

B. Conditions entailing the receipt upon the relinquishment of the reserved power of an undertaking from the Federal Government.

- I. An undertaking to carry out the restitution
  - (a) of property mentioned in sub paragraph A1 above.
  - (b) To the extent that the Allied High Commission may commit this responsibility to the Federal Government, of property not disposed of by the Allied High Commissioners under their current restitution programmes. Recommendations for the treatment of claims to certain classes of property so that such a commitment can be avoided are given in Annex B to this Report.

2. An undertaking to transfer to the International Refugee Organisation, or to such other body as shall be designated by the Allied High Commission, property presumed to have been looted from victims of Nazi persecution of which the owners or the countries of origin cannot now be identified.

3. An undertaking to maintain and enforce the existing Allied Legislation on internal restitution, with the exception of the Boards of Review. The Committee considers that if there are no legal obstacles, the Federal Supreme Court should inherit all powers vested in the Boards of Review.

II. If a procedure for international settlement of disputes concerning the rights of U.N. nationals in Germany is established, the Committee considers it would be appropriate to make it applicable to restitution claims of U.N. nationals or their Governments.

III. The Committee has agreed that in terminating the reserved power the Occupying Powers should if necessary declare that they retain the power to ensure that the Federal Government carry out their undertakings.

IV. The Committee has agreed that the relinquishment of the reserved power by the Occupying Powers implies no abandonment

of the principles

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Entry 62D-4  
Box 28

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of the principles of the right to restitution which remains unchanged until a peace settlement, and that the Government of the Federal Republic should be so advised at the time the reserved power is terminated.

V. The Committee has discussed the question of enactment of legislation on compensation for victims of Nazi persecution (General Claims Law) in connexion with the relinquishment of the reserved power. Though it has hitherto been unable to reach any final conclusions, it has noted the request of the Allied High Commission in the letter of 21st November to the Federal Government that it should receive for study as soon as possible draft legislation on this subject. The Committee considers that its discussions would be facilitated by a knowledge of the Federal Government's intentions and therefore hopes that their reply will be received in time for consideration at the resumption of its meetings.

/ ANNEX "A"

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ANNEX "A"

Subject to final agreement by the United States representative the Committee recommends that the following definitions be given to the Federal Government not necessarily for inclusion in their legislation, but as a statement of the extent of the German undertakings:

(a) "Cultural Property"

This term shall be understood to include all movable goods of importance or value either religious, artistic, documentary, scholarly or historic. This definition includes ancient or modern works of art, as well as such objects as rare musical instruments, books and manuscripts, scientific documents of a historic or cultural nature, and all objects usually found in museums, public or private collections, libraries and historic archives.

(b) "Antique" - is understood as meaning furniture of a hundred or more years old.

(c) "Of substantial value" - is understood to mean worth not less than £ 100 at the current 1950 value (100,000 French Francs).

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ANNEX "B"

The Committee has proceeded on the assumption that most restitution claims included in current Allied programmes will have been disposed of by 31st March, 1951. It is possible however that claims for Securities of German Issue may not have been disposed of by that date, and the Committee considers that these can then be pursued only by the individual claimants in the German courts unless the Governments of the claimants have already concluded bi-lateral agreements for the treatment of such claims with the Federal Government.

2. The French and United Kingdom representatives recommend that the attention of the High Commission be drawn to the importance of the negotiation of such agreements being entered into by the Federal Government at as early a date as possible. The United States representative reserves his position.

3. The Committee also recommends that the attention of the High Commission be drawn to the need, before the relinquishment of the reserved power, to dispose of the following outstanding claims for the restitution of railway rolling stock -

- (a) Restitution of rolling stock to Czechoslovakia.
- (b) Restitution of rolling stock built under duress in occupied countries.

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ISGG D-1/17

January 31, 1951

INTERGOVERNMENTAL STUDY GROUP ON GERMANY  
(USDAL)

Termination of the Reserved Power in the Field  
of Restitution

Distributed for information, the attached document is a U.S. Position Paper on the "Termination of the Reserved Power in the Field of Restitution." Any questions regarding this document should be directed to Mr. Kiefer, GEA, code 191, extension 3048. The Final Report of the Restitution to the Steering Committee (IGG (50) 192), December 15, 1950 is included in this paper.

Gerhard J. Drechsler  
Secretary

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without substantive amendment, that the established administrative procedures, including reports, will be continued, that there will be a fully staffed German judicial and administrative system capable of early and satisfactory completion of the programs, and that the latter will in fact be pressed forward with all diligence.

4. a) The three existing final courts of appeal under Allied restitution legislation should be consolidated into a single court which would have the status, rights, powers, and jurisdiction of the existing courts, exercisable by certiorari. The single successor court, with membership as set forth below, could be established before the contractual arrangement but should become a part of it.

I. The successor court of appeal should be composed of three judges appointed respectively by the United Kingdom, United States and France from their respective bars, and two German judges appointed by the Germans in a manner acceptable to them.

II. If the composition of the court under (I) proves to be unacceptable, the Germans should be allowed three judges, and a seventh judge should be appointed by an impartial authority to be agreed upon with the Federal Government; such an authority could be the presiding judge of the International Court of Justice at the Hague.

Invocation of the certiorari jurisdiction of the court should not require a majority vote. The expenses of the court and the salaries of the judges should be borne by the Federal Government and the court

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should

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should be deactivated only by agreement between the governments of the Federal Republic and of the United Kingdom, France and the United States.

The position of the joint mixed court proposed herein may involve constitutional problems in Germany, and the proposal should remain subject to such modification or adaptation as may be found to be necessary. HICOG should examine this question without delay.

b) In the event that it proves to be impossible to obtain German agreement to the successor court under (a) the Department should be prepared to consider designation of an appropriate German Federal Court as the successor to the three existing appeal courts, contingent on the establishment of a restitution panel in said court with powers and jurisdiction no less extensive than those of the existing appeal courts. The concession of an all-German court as the final appeal court in restitution matters should, however, be made only in return for undertakings from the Federal Government as follows:

I. The established jurisprudence of the existing Allied courts is to continue to have binding effect and not to be subject to change in substance.

II. There should be agreement between the Federal Republic and the three Powers on the principle of and procedures for the settlement of denial of justice cases arising from the disposition of restitution claims where the claimant has exhausted his local remedies in Germany and is not a German national resident in Germany.

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Settlement

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Settlement procedures might include diplomatic negotiation, international adjudication, arbitration, or a combination of these, and may conceivably be the same as those to be used for settlement of other claims and disputes arising under the contractual arrangement generally. Further study is being given to this point, pending the outcome of which the Department is not in a position to commit itself.

5. It should be understood that general claims legislation is to be enacted, by the respective Laender or otherwise, for the territory of the British Zone, along the general lines of such legislation in the United States Zone.

6. The three Powers should be given an undertaking that the benefits and rights provided in existing general claims legislation in the American and French Zones and under the proposed legislation for the British Zone will be maintained and that the respective programs will be pressed forward with diligence. The undertaking would have to be in such form as to overcome any constitutional problems which may be encountered in this connection in Germany. HICOG should examine this latter question without delay.

7. The three Powers should advise the Federal Government that they continue to desire a Federal general claims law to provide uniformity of treatment

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of treatment throughout the Federal territory on a basis at least as favorable as that provided in the American Zone Laender laws. However, a Federal general claims law should not be insisted upon.

8. It should be agreed that any agreement between the Federal Republic on the Laender, or both, and the Occupying Powers, in connection with the contractual arrangement or otherwise, on the subject of general claims legislation, should in no way be considered to impair the claims of persecutees who are not covered by existing or proposed legislation, or the rights of Occupying Powers to seek to obtain at some future time from the government of a united Germany broad supplementary general claims legislation.

9. Depending on the general context of the contractual arrangement it may be desirable and appropriate for the Occupying Powers to stipulate a general enforcement condition along the lines suggested in Section III of IGG (50)192.

10. The Federal government should be advised of the principle set forth in Section IV of IGG (50)192.

11. HICOM should proceed to negotiate with the Germans the arrangements contemplated in the foregoing as soon as ISG agreement has been reached so that they can be put into effect with the least delay.

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Termination of the Reserved Power in the Field of Restitution.

PROBLEM:

To define the contractual arrangement to be worked out with the Federal Republic prior to termination of the reserved power in the field of restitution.

DISCUSSION:

A. External restitution.

Restitution programs have been conducted in Germany under two broad headings, external and internal. The external restitution programs in the territory of the Federal Republic will have been largely completed by March 31, 1951. At that time there will, however, remain the following problems:

- 1) Restitution of German-issued securities denominated in German currencies;
- 2) Restitution of so-called duress rolling stock and the negotiation of a mutual rolling stock restitution agreement with Czechoslovakia;
- 3) Completion of operations at the Cultural Collecting Points in the United States Zone.

HICOG has been instructed to seek HICOM agreement to permit resolution of the first problem by direct bilateral negotiation between the Federal Republic and, in the first instance, the Netherlands. Since the British and French have already agreed to this procedure in ISG, and since the Germans are apparently willing to negotiate,

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the matter

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the matter now hinges on the willingness of the respective claimant countries to negotiate with the Federal Republic and on the possibility of obtaining mutually satisfactory agreements by this procedure. Until there have been further developments in this area it is impossible to formulate specific recommendations thereon in connection with the termination of the reserved power. However, it appears likely that there will be no need for a commitment from the Federal Republic in this field.

The High Commission is now looking into the second problem, which should be resolved in one way or another in the near future, and it probably will not be necessary to request a commitment on restitution of rolling stock.

As regards the third problem, present policy calls for the substantial completion of the Cultural Collecting Points operations by July 1. However, in view of the fact that considerable quantities of looted cultural property will then still be missing, and in view of the particular place which the protection of the cultural heritage of all nations has always occupied in United States policy, means should be provided in Germany for the further recovery and restitution of looted cultural property.

The Restitution Committee of ISG has reported on certain residual aspects of restitution, including the foregoing, and their recommendation in this regard are largely acceptable.

B. Internal Restitution.

As regards internal restitution, the picture is more complex.

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There is

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There is a Military Government law for the restitution of identifiable property in each of the three zones. Implementation - by the Germans - has been about 50% completed in the American Zone, with the prospect of very substantial further progress in 1951. Probably the same situation prevails in the French Zone. In the British Zone implementation is just beginning to be substantial. Modification of the investment moratorium, which is expected in the near future, to permit transfer of DM accounts from one non-resident to another, will undoubtedly speed up the rate of amicable settlements under the laws very considerably. Clarification of the equalization of burdens picture - a much more doubtful possibility - should also go a long way to expediting completion of the restitution programs by removing a significant element of uncertainty. Finally, lump-sum settlements by the successor organizations with the laender, of which two appear to be well on the way to finalization, will involve a very sizeable reduction in pending claims. However, even with these developments and the continuation of the currently fairly satisfactory efforts of the Germans, a significant slice of the internal restitution programs will remain by the end of 1951, by which time it is presumably intended that the contractual arrangements with the Federal Republic, and, therefore, the termination of the reserved power in the field of restitution, will have been completed.

Until now the Occupying Powers have exercised their power in the

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field of

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field of internal restitution by maintaining their legislation without amendment by the Germans, by supervision of German implementation, and by the maintenance of Allied final courts of appeal (in the French Zone the recently established final court of review has German as well as French members).

It is generally agreed that any change of substance in the existing legislation, or the opening of any possibility thereof, would have disastrous consequence for the further progress of internal restitution. Fortunately even German government circles now appear to have abandoned any thought which they may ever have entertained of exerting pressure for a change in the legislation, according to recent information, and it would, therefore, appear that this matter will not present a major problem when it is taken up with the Germans in connection with the contractual arrangement.

The question of the final courts of appeal is of no less importance than that of the maintenance of legislation. There is little question but that restitution claimants without exception still regard the existence of the present appeal courts as the only really effective guarantee that their rights will be accorded due judicial recognition - a view which is shared by HICOG - and that if these courts are withdrawn and determination of final appeals left in exclusively German hands there would result an immediate and overwhelming loss of confidence in the restitution procedure; furthermore, there would undoubtedly

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be a considerable reduction in the large percentage of amicable settlements and the total effect would be to impair seriously the possibility of achieving an early and satisfactory completion of the programs. While it is difficult to state categorically that the non-German appeal courts are essential for attainment of the objectives of existing legislation, the non-German estimate of the situation, referred to above, is probably justified. It would, therefore, appear essential that every effort be exerted to the end that the termination of the reserved power not result in the establishment of purely German final courts of appeal, or if this should prove unavoidable, that arrangements and undertakings be obtained which will minimize as much as possible any prejudice which claimants might suffer as a result of such a development. In this respect also it is encouraging to note that recent expression of official German opinion - to the effect that the Allied Appeal Courts remain, but with the addition of German judges - may facilitate an acceptable solution. (See, in this connection, Frankfort's telegram 5738, January 13, 1951, repeated to London as 486, in which substantial support is expressed for the establishment of a mixed Allied-German Court of Appeal).

The foregoing considerations have suggested that the principal effort of the United States on this question of the appeal courts be to obtain consolidation of the existing appeal courts into one mixed court (various possible combinations afford a certain negotiating area here) having

in general

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in general the status, rights, powers, and jurisdiction of the existing appeal courts exercisable by certiorari (as in the case of the American court).

While the implementation of this proposal may encounter constitutional obstacles in Germany--HICOG is being asked to examine this question -- the arrangement has a number of outstanding points of appeal. It would undoubtedly be acceptable to restitution claimants and their spokesmen. German participation in the final appeal court would be a real concession to the Germans, who would derive a further political advantage from the fact that the final action on cases arising under the politically unattractive and unprofitable restitution programs would not be an <sup>exclusively</sup> German responsibility. The existence of a mixed court would also have the advantage of avoiding disputes with the Federal Government on denial of justice claims under the restitution programs and resort to international adjudication or arbitration procedures to settle such cases.

A mixed court as described above may, however, encounter objections on the part of the Germans that it continues the occupation pattern and that it involves a type of extraterritoriality which is inconsistent with the attributes of sovereignty to be conferred on the Federal Republic. Apart from the arguments in favor of the mixed court which have been outlined above, the counter-position to these points is that the mixed court is a temporary institution for the concluding phases of a liquidating program, and that the rate of liquidation of this program

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is likely

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is likely to be seriously impaired by any more drastic change in the appeal court situation than is provided by the establishment of a mixed court.

If, nevertheless, it proves impossible to obtain acceptance of the proposed mixed court, the Department should be prepared to consider a second possibility, which is to place jurisdiction over all final appeals in a suitable German court. HICOG has suggested that the German court in this case be the Federal Supreme Court located in Karlsruhe, and that there be established in this court a special restitution panel with powers and jurisdiction no less extensive than those presently vested in CORA (the United States Court of Restitution Appeal), the establishment of a special panel being considered necessary by reason of the present understaffing and substantial backlog of work in this Federal Court.

This arrangement would have obvious attraction for the Germans, although it is possible that they might hesitate to take on the full responsibility which is envisaged, in view of the political liability, noted above, which the restitution programs represent for them. On the other hand, the arrangement would be unacceptable to the claimants unless it were made subject to a number of conditions.

The first of these would have to be a commitment from the Federal Government that the jurisprudence of the existing Allied appeal court

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would continue

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would continue to be recognized as binding; it may be necessary to enact German legislation to this effect. That such a condition is essential appears from the fact that even under the present arrangements in the American Zone, some German courts have attempted to give the restitution jurisprudence a direction at variance with the concepts prevailing to CORs. Furthermore, if experience in Austria proves anything, it is that with the passage of time the courts will increasingly emasculate the restitution laws in favor of the restitutors.

Secondly, there should be agreement on settlement of denial of justice cases arising from the disposition of restitution claims where the claimant has exhausted his local remedies in Germany and does not have German nationality and residence. This would mean effective review of cases involving non-German claimants, regardless of residence, and other claimants (particularly stateless persons) not resident in Germany; such review would also be available in cases where a successor organization like the JRSO (Jewish Restitution Successor Organization) is a claimant. Agreement should cover the means of settlement as well as the principle and might include diplomatic negotiation, international adjudication, arbitration, or a combination of these. It may be possible and desirable to adopt the same means for settlement of these cases as are to be used to settle other claims and disputes which may arise under the contractual arrangement generally. This matter is being given further study, and until satisfied that this is a practical formula, the Department should reserve its position.

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Allied supervision of the restitution programs would undoubtedly be very useful for some months at least. However, as the programs approach the concluding phases there is steadily decreasing need for this supervision, and there is, therefore, no basic reason for the retention thereof after the contractual arrangement goes into effect, except that the three Allied Powers should be furnished regular progress reports, as is done now (See Recommendation 3 below).

C. General Claims Legislation.

Another aspect of internal restitution has been the matter of general claims legislation, which, like the property restitution programs, continues to be of major interest to former persecutees and their organizations and spokesmen. Such legislation now exists in the Laender of the United States and French Zones, and in many localities in the British Zone and varies in scope depending on the particular law. In 1950 the High Commission asked the Federal Government to enact a Federal General Claims law, with a view to establishing broad and uniform coverage. The scope of a satisfactory Federal General Claims law has been under extensive consideration in ISG, on the assumption that enactment of such a law would be one of the prerequisites to termination of the reserved power. ISG has so far been unable to reconcile the positions of the three Governments in regard to the scope of a satisfactory Federal General Claims law. In the meantime, it has been reported that opinion in the Federal and Land governments has now crystallized in opposition to enactment by the Federal Government of any general

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any general claims legislation at this time. (See HICOG telegram 5578, January 9, repeated to London as 477). Under the circumstances, it appears necessary to redefine our objectives in this field.

The obvious first objective should be to obtain enactment of general claims legislation by or for all the Laender in the British Zone, along the lines of similar legislation elsewhere in western Germany. The Laender in question are understood to be prepared to take such action, which might precede or form a part of the contemplated contractual arrangement.

A second minimum objective should be to obtain appropriate assurances that the benefits of Laender legislation will not be withdrawn at a later time and that the relevant programs will be pressed forward with all diligence. Such assurances might, however, involve constitutional

problems

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-10-A

problems in Germany which should be further investigated.

Beyond these two objectives we should again express our desire for a Federal general claims law which would assure uniform treatment of claims throughout Western Germany on a basis at least no less favorable than that provided in the American Zone legislation. However, the enactment of such a Federal law should not be regarded as an essential condition of the contractual arrangement.

RECOMMENDATIONS:

The United States position in ISG, and the position of the Occupying Powers in negotiating a general contractual arrangement with the Federal Republic should be as follows, in connection with the termination of the reserved power in the field of restitutions:

1. The Federal Government should be required to take the action outlined in Section IA of IGC (50) 192 (Report of the Restitution to the Steering Committee), with the modifications noted below, or to undertake to do so within a stipulated period from the coming into effect of the contractual arrangement. Whether the requirement be for enactment of legislation or merely an undertaking to enact legislation would depend on general circumstances, such as the speed with which it is desired to put into effect a contractual arrangement, and the practical possibility of obtaining required German action in this and other fields in a stipulated space of time. However, if at all possible, the enactment of legislation rather than a commitment to

that

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of  
that effect, should be the condition/agreement.

In connection with the qualifying condition under IA 1(a) (i), it is to be understood that the claimant nations are merely to submit formal declarations, attached to their claims, that the properties had previously been claimed and that these claims had not been rejected as invalid, such declarations to be accepted as conclusive by the Germans (See Frankfurt telegram 5148, December 20, repeated to London as 429).

The condition under IA 1(b) should be dropped if for no other reason than that it will be exceedingly difficult, if not impossible, to assemble in any systematic and consistent form the tests of restitutability which have been at various times applied by the three Powers in respect of the millions of items of cultural property with which they have dealt in Germany. Instead there should simply be some reference in Section IA to the fact that it is looted property with which the Section deals, and there should be no definition of loot.

2. The Federal Government should be required to furnish undertakings as outlined in Section IB 1(a) and 2 of ICG (50)192. However, paragraph (2) under IB is not considered to have any considerable practical significance and may be dropped in the course of negotiation if this appears desirable.

3. The Federal Government should be required to furnish an undertaking that the existing Allied legislation on internal restitution, including subsidiary regulations, will be maintained and enforced

without

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DEPARTMENT OF STATE  
BUREAU  
DIVISION OF EUROPEAN AFFAIRS

CONFIDENTIAL

March 23, 1951 a full report  
{ Put together info from which  
We should ask is there  
what has been  
done with it.

TO : OEX:ILI - Miss A. R. Hall

FROM : EUR:WE - Mr. Colladay *MHC*

SUBJECT: Airgram drafted March 19, 1951, to VIENNA

Were records turned  
over to Legation -  
Comprehension  
report  
Adv. Col. Hamble  
for doc

The attached airgram is not acceptable to WE as it is not considered an adequate answer to the Legation's request for approval of its recommendations. There are political considerations, however, which must be solved before an answer can be given. WE does not feel there are any economic considerations in this matter and hence Mr. Peterson has removed his name for concurrence.

1) In regard to (Group A) there appears to be nothing conclusive in the record to show these objects were of (Hungarian origin). The Legation will hardly consider the question regarding Group A inventory cards to be an adequate answer or discussion of the recommendation it makes. Moreover, the decision in regard to turning over the objects to the Austrians would seem to be a political one.

At present the only policy decision in this matter is that expressed in the Department's A-718 of May 10, 1950 to HICOG, Frankfurt, that on completion of the restitution program unidentified art objects would be returned to USFA or American authorities in Austria for ultimate disposition under United States policies and directives. Provided the Legation can present proof that these objects are unidentified, what are the policies and directives which would govern their disposition by American authorities?

2) With regard to (Groups B and C,) WE does not have files sufficient to pass on the recommendations made by the Legation. It is suggested that the Legation be instructed to report fully on all actions which have been taken to identify the objects so that a decision regarding their disposition could then be made.

3) The objects in (Group D) would seem to be of relative unimportance and could be left to disposition by the Austrian Government provided there is a policy or directive covering this point. The JCS directive number 1779 referred to in the last sentence of the airgram applies to Germany only. On what basis is the statement made that "it should be applied with equal validity . . . by Austrian institutions"?

EUR:WE:MHColladay:mrh

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100294

RG-59  
Lot 620-4  
Box 18  
NND 968071  
AuthNty  
BY JMW NARA D-18  
4-9-61  
DECLASSIFIED

FORM DS-10 2-10-47	DEPARTMENT OF STATE	DATE 3/26/51
REFERENCE SLIP		
TO: <i>LC - Mr. Hodge</i>		
<input type="checkbox"/> ADVISE <input type="checkbox"/> APPROVE & RETURN <input type="checkbox"/> AS YOU REQUESTED <input type="checkbox"/> ATTACH FILE <input type="checkbox"/> ATTENTION <input type="checkbox"/> COMMENT & RETURN <input type="checkbox"/> CONSIDER <input type="checkbox"/> COPYING <input type="checkbox"/> CORRECT <input type="checkbox"/> FILE <input type="checkbox"/> FOLLOW-UP <input checked="" type="checkbox"/> FOR YOUR INFORMATION <input type="checkbox"/> HOLD <input type="checkbox"/> INITIALS NEEDED <input type="checkbox"/> INSTRUCT <input type="checkbox"/> INVESTIGATE & REPORT <input type="checkbox"/> JUSTIFY <input type="checkbox"/> KEEP ME ADVISED <input type="checkbox"/> LEGAL MATTER <input type="checkbox"/> MEMO REQUIRED <input type="checkbox"/> NOT INTERESTED <input type="checkbox"/> NOTE & DESTROY <input type="checkbox"/> NOTE & FILE	<input type="checkbox"/> NOTE & FORWARD <input type="checkbox"/> NOTE & RETURN <input type="checkbox"/> PER TELEPHONE TALK <input type="checkbox"/> PREVIOUS CORRESPONDENCE <input type="checkbox"/> PRIORITY ACTION <input type="checkbox"/> RECONSIDER <input type="checkbox"/> RECOMMEND ACTION <input type="checkbox"/> RECORD <input type="checkbox"/> REPLY <input type="checkbox"/> RETURN TO SENDER <input type="checkbox"/> REWRITE <input type="checkbox"/> SEE ME <input type="checkbox"/> SIGNATURE REQUIRED <input type="checkbox"/> TAKE ACTION <input type="checkbox"/> TRANSFER <input type="checkbox"/> TYPE <input type="checkbox"/> VERIFY <input type="checkbox"/> REPLY FOR SIGNATURE OF	
REMARKS:  <i>Prepared at the request of GEA</i>		
FROM: <i>Ardelia R. Hall</i>		

100295

Box 28  
Entry 622-4  
R659

DECLASSIFIED  
Authority *100968071*  
By *AT* NARA Date *7-8-99*

AMENDED DEFINITION OF "DISPOSSESSION"

IN IGG REPORT

OF THE RESTITUTION COMMITTEE

The following amended definition of "dispossession" is considered:

"IGG/P(51)58, 9th March 1951,  
"Revised Report of the Restitution [Committee] to the Steering Committee," Explanatory note, page 3.

"Sub-paragraph 1 (a)(1.) Cultural Property"

This class of property defined in sub-paragraph (a) of Annex A is specially privileged in the following ways:-

- "(a) The German holder may not plead that it was bought in good faith, and therefore the phrase "other forms of dispossession" in the definition of "removed by force" (sub-paragraph (e) of Annex A) when applied to cultural property covers ordinary purchase. . . ."

It is recommended that the elucidation of "other forms of dispossession" to include ordinary purchase when art was originally bought by Germans in occupied countries be omitted as but one consideration among many in determining the validity of claims.

The recovery of looted art, which a German holder might plead was originally bought in good faith, can be denied under Annex A (e), when

"identified by the claimant government as having been removed by force at any time during the occupation . . . ."

It should be understood that the future recovery program in all countries is based largely upon the voluntary cooperation with their governments, museums, universities, etc., and scholars of good will and should be limited to clearly identifiable loot if international cooperation is expected. Lists of looted art still missing to be recovered in Germany or elsewhere are being circulated and publicized on an international basis.

ONE: LLI: A'Hall:mas

March 26, 1951)

100296

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Authority: 2009/08/07  
AT NARA Date 7-8-99

R 6 59  
ENTY 62D-4  
Box 28

SECRET

**AMENDED DEFINITION OF "DISPOSSESSION"**

**IN TWO PARTS**

**OF THE RESTITUTION COMMISSION**

The following amended definition of "dispossession" is considered:

TCR/5158, 9th March 1951.  
"Revised Report of the Restitution [Committee] to the Steering Committee." Explanatory note, page 2.

**Sub-paragraph 1 (a)(i.) Cultural Property**

This class of property defined in sub-paragraph (a) of Annex A is specially privileged in the following way:-

- (a) The German holder may not plead that it was bought in good faith, and therefore the phrase "other forms of dispossession" in the definition of "removed by force" (sub-paragraph (c) of Annex A) when applied to cultural property covers ordinary purchases.

It is recommended that the elucidation of "other forms of dispossession" to include ordinary purchases when art was originally bought by Germans in occupied countries be accepted as but one consideration among many in determining the validity of claims.

The recovery of looted art, which a German holder might plead was originally bought in good faith, can be denied under Annex A (c), when:

"Identified by the claimant government as having been removed by force at any time during the occupation . . ."

It should be understood that the future recovery program in all countries is based largely upon the voluntary cooperation with their governments, museums, universities, etc., and scholars of good will and should be limited to clearly identifiable lost if international cooperation is expected. Lists of looted art still missing to be recovered in Germany or elsewhere are being circulated and published on an international basis.

ONE: ELL: 5/11/51

March 26, 1951

100297

R 6 59  
 EMTY 629-9  
 Box 28

DECLASSIFIED  
 Authority NND968071  
 AT NARA Date 7-8-99

WASHER INFORMATION ON

AMENDED DEFINITION OF "DISPOSSESSION"

IN ICG REPORT

OF THE RESTITUTION COMMITTEE

The following amended definition of "dispossession" is considered:

"ICG/P(51)58, 9th March 1951,  
"Revised Report of the Restitution [Committee] to the Steering Committee," Explanatory note, page 3.

"Sub-paragraph 1 (a)(1.) Cultural Property

This class of property defined in sub-paragraph (a) of Annex A is specially privileged in the following ways:-

- "(a) The German holder may not plead that it was bought in good faith, and therefore the phrase "other forms of dispossession" in the definition of "removed by force" (sub-paragraph (c) of Annex A) when applied to cultural property covers ordinary purchase. . . ."

It is recommended that the elucidation of "other forms of dispossession" to include ordinary purchase when art was originally bought by Germans in occupied countries be omitted as but one consideration among many in determining the validity of claims.

The recovery of looted art, which a German holder might plead was originally bought in good faith, can be denied under Annex A (d), when

"identified by the claimant government as having been removed by force at any time during the occupation . . . ."

It should be understood that the future recovery program in all countries is based largely upon the voluntary cooperation with their governments, museums, universities, etc., and scholars of good will and should be limited to clearly identifiable loot if international cooperation is expected. Lists of looted art still missing to be recovered in Germany or elsewhere are being circulated and publicized on an international basis.

OMX: L.I: A: Hall: 2225

March 26, 1951

100298

R 6 59  
ENTY 621-4  
Box 28

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Authority WND 968071
By AT NARA Date 7-8-99

AMENDED DEFINITION OF "DISPOSSESSION"

IN THE REPORT

OF THE HISTORICAL COMMISSION

The following amended definition of "dispossession" is considered:

"ICG/P(51)56, 9th March 1951.

"Revised Report of the Historical Commission [Committee] to the Steering Committee." Supplementary note, page 3.

Sub-paragraph 1 (a)(1.) Cultural Property

This class of property defined in sub-paragraph (a) of Annex A is specially privileged in the following ways:-

- "(a) The German holder may not plead that it was bought in good faith, and therefore the phrase "other forms of dispossession" in the definition of "removed by force" (sub-paragraph (a) of Annex A) when applied to cultural property covers ordinary purchase. . . ."

It is recommended that the elucidation of "other forms of dispossession" to include ordinary purchase when art was originally bought by Germans in occupied countries be omitted as but one consideration among many in determining the validity of claims.

The recovery of looted art, which a German holder might plead was originally bought in good faith, can be handled under Annex A (a), when

"identified by the claimant government as having been removed by force at any time during the occupation . . . ."

It should be understood that the future recovery program in all countries is based largely upon the voluntary cooperation with their governments, museums, universities, etc., and scholars of good will and should be limited to clearly identifiable loot if international cooperation is expected. Lists of looted art still missing to be recovered in Germany or elsewhere are being circulated and publicized on an international basis.

CEK:LL:AM:Hallman

March 25, 1951

100299

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Authority WND 968071
By AT NARA Date 7-8-99

R6 59  
ENTY 62-4  
Box 28

**INCOMING TELEGRAM**

*Department of State*

*Hall*

**TELEGRAPH BRANCH  
CONFIDENTIAL**

23  
Action

Control: 4874  
Rec'd: April 10, 1951  
10:44 p.m.

GER  
Info

**FROM: London**

**TO: Secretary of State**

SS  
G  
E  
P  
L  
EUR  
DCL  
DCR

**NO: SIGTO 584, April 10, Midnight**

**PRIORITY.**

SENT FRANKFORT 1088; REPEATED DEPARTMENT SIGTO 584,  
PARIS 1957.

Ref IGG/P (51) 58 (revised), Art I, Sec A, para 3 and  
Annex A, definition of "looted".

During consultation with Departmental officers concerned  
with cultural restitution, it was pointed out to USDEL  
that definition "looted" bars plea of purchase in good  
faith by German holder in cases concerning cultural pro-  
perty. In opinion Departmental officers this is broader  
than present HICOG policy.

USDEL today raised this point in steering comite. Fr  
objected strongly. Brit supported Fr. Tenor of dis-  
cussion indicated pressing this point likely to cause  
serious difficulty reaching agreement on external re-  
stitution as a whole.

Would appreciate urgent advice re HICOG practice and  
views re proposed definition.

GTFORD

EHL:BBS

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MESSAGE IS PROHIBITED

100300

DECLASSIFIED
Authority: <i>WNP 968071</i>
By: <i>AT</i> NARA Date: <i>7-8-99</i>

*R6 59*  
*ENTY 62D-9*  
*Box 28*

DECLASSIFIED  
Authority WNP968071  
By AT NARA Date 7-8-99

RG 59  
Entry 62D-4  
Box 28

16 Frankfurt am Main

Copy

*April 16, 1951*

My dear Mr. Chancellor:

I refer to your letter of September 30, 1950 in which you furnished the Allied High Commission additional information on a "German Committee of Experts for the Purpose of Dealing with Matters of Restitution of Works of Art" which was established by the Permanent Conference of the Ministers for Cultural Affairs. I also refer to a previous letter on this subject dated April 12, 1950 in which you requested that the Allied High Commission examine the question whether approval could be given to the establishment of a Central German Agency for Restitution. This is a matter which touches upon one of the problems to be studied in relation to the political decisions of the Brussels Conference and will be discussed between the Allies and the Federal Republic when studies have progressed sufficiently far on both sides.

However, without awaiting the final establishment of contractual or other arrangements with respect to the restitution of works of art I would at this time approve the transfer to the Federal Republic of the custody of certain cultural properties now in possession of HICOG as well as cultural properties held in temporary trust by the Land Hesse and by the Land Bavaria. (All these properties are presently located at the Central Collecting Points at Wiesbaden and Munich). I would therefore welcome the immediate establishment of an official agency by the Federal Government for this purpose. Various aspects of the proposed transfer have already been informally discussed between HICOG representatives and members of the German Committee above mentioned, notably Dr. Dieter Sattler, President of the Committee, and Dr. Ludwig Heydenreich, its secretary.

It is

His Excellency

The Chancellor of the Federal Republic of Germany,  
Palais Schaumburg,  
150-160 Koblenzer Strasse,  
Bonn.

E:PY:WGDaniels/sw

Apr 4- 1951

Tel: 8845

*Old with:  
of Pub aff. (Brown)  
of Pa. aff. (Dayton)  
OCC (Berman)*

*Copy to Fairbank House - Apr 17  
ENC. 1*

100301

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Authority WNP 968071  
By AT NARA Date 7-8-99

RG 59  
Entry 62D-4  
Box 28

- 2 -

It is intended that the Federal Government, at the time of the transfer, will assume full responsibility for proper disposition of the transferred properties. Included are cultural properties originating in Eastern Germany and in other areas which must be held in proper safeguarding until such time as the Federal Republic can make proper disposition thereof. Also included are cultural objects of the Berlin Collections which belonged to the former State of Prussia together with other objects which Article VI of Military Government Law No. 19 provides will be transferred to the Federal Republic for proper safeguarding. Pending the establishment of other arrangements HICOG personnel will continue the restitution of works of art and for this purpose the Federal Republic must permit access to any transferred cultural object for study and examination and for restitution in proper cases. It is not planned that the transfer will include works of art of identified Jewish origin and any such works of art mistakenly transferred must upon discovery be surrendered by the Federal Republic to the Jewish Cultural Reconstruction Agency or such other Agency as HICOG may designate.

It is desired to complete this transfer of custody and responsibility by June 1, 1951. Since the German experts have already had informal discussions with HICOG representatives and have studied the problems involved it is expected that this target date can be met without difficulty. The HICOG representatives are Messrs. Thomas C. Howe and S. Lane Faison. I would appreciate the earliest possible designation of the official representatives on the German side, who should be given adequate powers in the interest of expeditious handling of this matter and who would meet with the HICOG representatives for the purpose of working out mutually acceptable details of the transfer.

Sincerely yours,

John J. McCloy  
United States High Commissioner  
for Germany

100302

Department of State

3 P. M.

CONFIDENTIAL

CONTROL

3822

SENT TO: Hicog, FRANKFORT 7535

10-51

DEPT requests INFO as to action taken under ART 6 of MIL GOVT Law 19.

Has property in Wiesbaden Central Collecting Point vested in Land Hesse by law been TRANSF to FEDREP? If not, what action presently contemplated? Has any action been taken in UK and FR Zones as contemplated ART 12?

What is situation property formerly belonging to Reich or Prussia formerly located Berlin? Has consideration been given to question whether appropriate to return some portion such property to Berlin and whether it could be held in a Zone but in custody of accredited Berlin personnel?

Insofar as property belonged to Laender or provinces now in <sup>USSR</sup> ~~USSR~~ Zone, Department considering possibility seeking declaration by FEDREP that it will act as trustee of such property until, in a unified Germany, it can be returned to former ownership. Request your comments.

ACHESON

Drafted by: GEM:ILL:ARHall:mms	5/10/51	Telegraphic transmission and classification approved by:	Philip G. Hodge
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L/GER - J. M. Raymond

GEA - Mr. Moores

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DECLASSIFIED  
 Authority NND 968071  
 By BAW/NARA Date 7/9

R6 59  
Lot 620-4  
Box 28

100303

WESTERN UNION

Y

WX015 53/51 INTEL PD DUPLICATE OF TELEPHONED TELEGRAM 4 EXTRA -

LT ARDELIA HALL / ZP MUNICHEN VIA WICABLES MAY 11/

(DLR) 3027 CAMBRIDGE PL WASHDC -

DANIELS INFLEXIBLE, JUNE 30 SHUTDOWN MUNICH IMPOSSIBLE, THAT DATE  
WIESBADEN FEASIBLE, KIEFER HELPFUL BUT NOW URGES CANCELING YOU, AGREES  
ANOTHER OPERATION CLEANUP UNDESIRABLE, CAN YOU HELP TRANSFER PALSON AND  
ESSENTIAL STAFF, ANOTHER DECISION JULY PHONE ME IF NECESSARY WIESBADEN  
21279 -

HOWE

3027 30 MUNICH 21279 -

DECLASSIFIED
Authority <u>NNA 768071</u>
By <u>BHM</u> NARA Date <u>7/9</u>

R6 59  
Lot 620-4  
Box 28

100304



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(Classification)

DO NOT TYPE IN THIS SPACE  
262 0041/6-1951  
IN 662.0023

FOREIGN SERVICE DESPATCH

HICOG, FRANKFURT

3756

June 12, 1951

FROM

DESP. NO.

DATE

AIR POUCH

TO

THE DEPARTMENT OF STATE, WASHINGTON.

PRIORITY

REF

REFS Telegrams to HICOG No. 7335, May 10, 1951  
and No. 7391, May 21, 1951

SUBJECT

CULTURAL RESTITUTION DISPOSITION OF GERMAN ART OBJECTS AND  
CLOSING OF WIESBADEN AND BEMICH COLLECTING POINTS

56  
For Dept.  
Use Only  
JUN  
16  
ACTION  
IN  
INFO  
DEN  
RIG  
GSR  
OLI  
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LTD

Enclosure No. 1 is a copy of a self-explanatory letter, dated April 16, 1951, from the U.S. High Commissioner to the Chancellor of the Federal Republic, proposing the transfer to the Federal Republic of the custody of cultural property presently in possession of HICOG together with cultural property temporarily held in trust by the Lander Hesse and Bavaria.

Enclosure No. 2 is a copy of an unofficial translation of a proposed reply (also self-explanatory) for the signature of the Federal Chancellor, on which agreement has been reached with the Germans on a working party level. The proposed reply has also been closed within HICOG and will, if signed by the Chancellor, constitute, together with the High Commissioner's letter of April 16, 1951, a formal agreement between the Federal Government and HICOG. Due to the Chancellor's journey to Rome, the proposed reply will not be submitted to him for signature before June 22. Together, these documents answer most of the inquiries as to HICOG intentions made in Department's telegram to HICOG No. 7335, May 10, 1951. Most of Military Government Law No. 19, including Articles 6 and 12, has been repealed and is no longer of significance. No property in the Wiesbaden Collecting Point vested in Land Hesse under that Law. We do not contemplate returning to Berlin any property having belonged to the Reich or Prussia and formerly located in Berlin. This does not preclude the possibility, however remote, that the Federal Government, after conclusion of the present proposed transfer of custody, may not see fit, in its capacity as trustee and in discharging its duties as such to the successor in interest to the former State of Prussia or Reich to keep some or all of such properties in Berlin. Likewise the question of whether Berlin personnel should properly be determined by the Federal Government, after its assumes responsibility for the care and safekeeping of the properties. The transfer arrangement, when consummated, will, of course, charge the Federal Republic with trustee responsibilities as to property which belonged to Lander or Provinces of the High Zone.

Enclosure No. 3 is a copy of a translation of a letter from the French High Commissioner Francois-Poncet to the U.S. High Commissioner, dated May 17, 1951, requesting that the proposed arrangement with the

*Enclosure  
Despatch  
not rec.  
in Dept  
filed  
June 21*

*Rec'd  
do not  
agree  
to.*

W.D. Daniels/eh

REPORTER(S)

CONFIDENTIAL

PREPARATION TIME

INFORMATION COPY

DECLASSIFIED  
Authority: UNN 968071  
By: BAM NARA Date: 7/9

RG 59  
Lot 620-4  
Box 28

100306

Federal Government be held in abeyance until the restitution of cultural properties and all related matters can be taken up in discussions with the Federal Government. Oral statements of Rose Valland in the FIC Sub-Committee elaborating on Francois-Poncet's letter indicate that French opposition to our proposed arrangement stems in part from their fear that transfer of custody to the Federal Government diminishes further the chances of establishing the principle of restitution in kind which the French apparently have not yet abandoned.

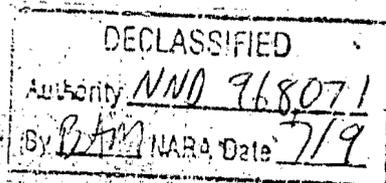
Enclosure No. 4 is a copy of Mr. McClellan's reply to Francois-Poncet's letter of May 17. Among the reasons for proceeding with the transfer arrangement with the Federal Government notwithstanding Francois-Poncet's letter are that the Bonn Government is most properly representative of, and responsible for its actions to, all the German people who are the real interest-holders in the larger part of the properties to be transferred; that the German personnel at the Prussian and Bavarian Land levels are not as competent or as sympathetic to U.S. views as the people available at Federal level; that the Federal Government will later take up responsibilities with respect to the external restitution of works of art and the proposed transfer of custody will require the Federal Republic to create an agency which can more quickly and competently take over restitution activities when the time therefor comes; and that the Federal Government, now authorized to represent Germany abroad in certain fields, can more appropriately and easily enter into loan and exchange agreements with foreign Governments or bodies.

HICOG plans to close the Wiesbaden Cultural Collecting Point sometime during the month of June. Howe has, during the past two months, been spending more and more time at Munich assisting Faison on problems of the Munich CCP. Howe and von Schmidt will be in Munich on full-time basis after closing the Wiesbaden CCP. Present plans call for the closing of Munich CCP July 30. They also call for the retention of both Howe and Faison until that date, when it is hoped the work at Munich will be virtually completed. The Office of Public Affairs will take care of creating and transporting to Austria of objects found to be properly deliverable to that country and of the final de-requisitioning of the building after the Alt-Ansee complex objects have been processed. The cumulative statistical report on cultural restitution is also expected to be completed within that time-period.

Such matters as the further review of past restitutions made in error to Italy and Yugoslavia, assisting re the restitution of holdings under USPA and HICOG control, as well as all residual functions in the field of cultural restitution will, as of June 30, be assumed by the Office of Public Affairs by staff assignment within HICOG. That Office is not transferring U.S. positions from Property Division, but will perform the transferred functions with its present U.S. personnel. Von Schmidt will, after June 30, be employed in Office of Public Affairs as an assistant to Mr. Breitenbach but this will not prevent his giving assistance at Munich after that date.

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Howe says in a letter he has passage July 30



RG 59  
Lot 620-4  
Box 28

100307

...all reports ...  
...will be ...  
...with ...  
...will be ...

*William F. Daniels*  
Chief, Property Division  
Office of Economic Affairs

Office of Public Affairs  
Office of General Counsel

**1. Introduction**

- 1.1 ...
- 1.2 ...
- 1.3 ...
- 1.4 ...

~~SECRET~~

DECLASSIFIED.  
Authority NND 968071  
By BAM NARA Date 7/9

RG 59  
Lot 62D-4  
Box 28

100308

UNITED STATES HIGH COMMISSIONER FOR GERMANY  
16 Frankfurt am Main

April 13, 1951

My dear Mr. Chancellor:

I refer to your letter of September 30, 1950 in which you furnished the Allied High Commission additional information on a "German Committee of Experts for the Purpose of Dealing with Matters of Restitution of Works of Art" which was established by the Permanent Conference of the Ministers for Cultural Affairs. I also refer to a previous letter on this subject dated April 12, 1950 in which you requested that the Allied High Commission examine the question whether approval could be given to the establishment of a Central German Agency for Restitution. This is a matter which touches upon one of the problems to be studied in relation to the political decisions of the Brussels Conference and will be discussed between the Allies and the Federal Republic when studies have progressed sufficiently far on both sides.

However, without awaiting the final establishment of contractual or other arrangements with respect to the restitution of works of art I would at this time approve the transfer to the Federal Republic of the custody of certain cultural properties now in possession of HICOG as well as cultural properties held in temporary trust by the Land Hesse and by the Land Bavaria. (All these properties are presently located at the Central Collecting Points at Wiesbaden and Munich.) I would therefore welcome the immediate establishment of an official agency by the Federal Government for this purpose. Various aspects of the proposed transfer have already been informally discussed between HICOG representatives and members of the German Committee above mentioned, notably Dr. Dieter Sattler, President of the Committee, and Dr. Ludwig Heydenreich, its secretary.

*These conditions mentioned*

It is

His Excellency  
The Chancellor of the Federal Republic of Germany,  
Palais Schaumburg,  
150-150 Kehlener Strasse,  
Bonn.

E:PT:ED Daniels/su

DECLASSIFIED  
Authority: NND 968071  
By: BIA/NARA Date: 7/9

R6 59  
Lot 620-4  
Box 28

100309

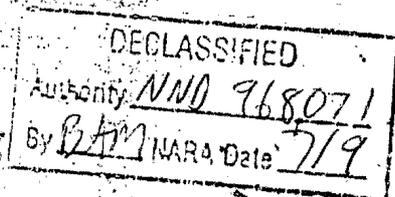
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It is intended that the Federal Government, at the time of the transfer, will assume full responsibility for proper disposition of the transferred properties. Included are cultural properties originating in Eastern Germany and in other areas which must be held in proper safeguarding until such time as the Federal Republic can make proper disposition thereof. Also included are cultural objects of the Berlin Collections which belonged to the former State of Prussia together with other objects which Article VI of Military Government Law 19 provides will be transferred to the Federal Republic for proper safeguarding. Pending the establishment of other arrangements HICOG personnel will continue the restitution of works of art and for this purpose the Federal Republic must permit access to any transferred cultural object for study and examination and for restitution in proper cases. It is not planned that the transfer will include works of art of identified Jewish origin and any such works of art mistakenly transferred must upon discovery be surrendered by the Federal Republic to the Jewish Cultural Reconstruction Agency or such other Agency as HICOG may designate.

It is desired to complete this transfer of custody and responsibility by June 1, 1951. Since the German experts have already had informal discussions with HICOG representatives and have studied the problems involved it is expected that this target date can be met without difficulty. The HICOG representatives are Messrs. Thomas C. Howe and E. Lane Faison. I would appreciate the earliest possible designation of the official representatives on the German side, who should be given adequate powers in the interest of expeditious handling of this matter and who would meet with the HICOG representatives for the purpose of working out mutually acceptable details of the transfer.

Sincerely yours,

John J. McCloy  
United States High Commissioner  
for Germany



R6 59  
Lot 620-4  
Box 28

100310

**DRAFT**

Reference is made to your letter of April 15, 1951, which proposed that the Federal Government assume immediate custody and trustee responsibilities with respect to certain cultural properties now in possession of your office or which are presently held in temporary trust by the Land Hesse and the Land Bavaria.

Since my interim reply of May 15, 1951 there have been several meetings at working party level of representatives of our respective offices which have fully clarified all aspects of your proposal and led to complete understanding on both sides.

The Federal Government agrees to the assumption of custody and responsibility with respect to the above properties as proposed in your letter of April 15, 1951. The Federal Government accepts your letter of April 15 and this letter as a formal agreement between the Federal Government and HICOG concerning the respective functions and responsibilities.

I fully understand that this agreement in no way affects the power of external restitution of cultural objects reserved to the Allied Governments. I have further noted that the restitution of these cultural properties will also in the future be effected exclusively by officials of HICOG. The Federal Government in this respect, as with restitutions already accomplished, will have no responsibility whatsoever. The Federal Government will grant representatives of your office free access to any transferred cultural objects for examination and will render all assistance for restitution where directed by such representatives.

The Federal Republic will not in any way participate in or have any responsibility with respect to the processing of the so-called Alt-Aussee complex, which your office is presently undertaking and expects to complete prior to June 30, 1951. All restitutions resulting or having resulted from this processing is, and will remain, an activity and responsibility of your office. The Federal Government would appreciate it if your office would also apply the approved American principles of restitution to the Aussee-complex.

*Why can't we ask Amer. Principles to Law 19 Properties Dec. 1951?*

The Federal Government will assume, upon transfer of custody the responsibilities of a trustee with respect to such properties and as such will safeguard and preserve them and otherwise faithfully discharge its duties to the owners or ultimate rightful recipients, including such persons who recovered their properties pursuant to the Allied Restitution Laws.

*which Law 19 or Est. Rest. Prop.*

Certain cultural properties such as those originating in Eastern Germany and perhaps other areas will have to be held in safekeeping pending such time as political or other settlements make proper disposition possible.

Any properties of identified Jewish origin given into the custody of the Federal Republic will upon discovery be surrendered to the Jewish Cultural Reconstruction Agency or such other agency as may be designated by your office.

DECLASSIFIED  
Authority NND 968071  
By RAM NARA Date 7/9

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Lot 620-4  
Box 28

100311

It is my understanding that your office will make available to the Federal Government a duplicate set of all relevant files and records pertaining to the objects to be transferred.

The Federal Republic plans by executive action to create an agency within the Foreign Office responsible for these transferred objects for which the Federal Republic thru contractual or other arrangements with the Allied governments may later assume external restitution obligations.

*internal*  
Contractual custodial arrangements are contemplated with respect to the books and collections which belong to the former State of Prussia. We understand that you regard such arrangements as internal German adjustments as to which your office does not require further particularization.

*This is not acceptable*

Please permit me to take this occasion to ask your help with respect to a matter which, although not a part of this transfer agreement, nevertheless concerns cultural property of vital concern to the Federal Republic. I refer to the fact that at the present time important holdings of the Museums of Kassel, Luebeck and Kiel are still in Austria, where they were placed by German authorities purely for safekeeping during the war. The Kassel holdings are in the international sector of Vienna and those of Luebeck and Kiel are divided between repositories in the British (Graz) and American (Linz) Zones in Austria. The Federal Republic would greatly appreciate any steps that you may deem fit to undertake to effect release of these holdings, which constitute such an important part of the German cultural heritage and the ownership of which is unquestioned.

ADENAUER

DECLASSIFIED  
Authority NND 968071  
By BAM NARA Date 7/9

R6 59  
Lot 620-4  
Box 28

100312

Enclosure No. 2 to HICOG Dispatch No. 3753 dated Jan 23, 1951

FRENCH AMBASSADOR  
AND HIGH COMMISSIONER IN GERMANY

(May 17, 1951)

My dear Colleagues,

On the 10th of May 1951, your Office sent me a copy of a letter which you sent to Chancellor Adenauer on the 16th of April 1951, in which you foresee the transfer of certain responsibilities to the Federal Republic in matters of preservation and disposal of art works gathered in the American Zone at the Collecting Points of Wiesbaden and Buirich.

I understand that when you refer to the letters of the 18th of April and 20th of September 1950 from the Federal Chancellor you did not want to answer unilaterally to proposals which were still under study at a tripartite level and that still have to be discussed between Allies in the light of conclusions by the Intergovernmental Study Group in London.

On this point the first paragraph of your letter, by itself, should not leave room for any doubt.

Nevertheless, I am inclined to believe that the arrangements which you are planning to make in the near future and which would, without a doubt, answer an understandable desire to reduce the intervention of your Office, would risk seriously compromising the results of the negotiations which will have to be undertaken with the Germans to put into effect the decisions of the Brussels Conference.

You will notice that it would be regrettable to make isolated and premature concessions to the Germans, when we are not in a position to demand from them at the present time engagements which could on the contrary be obtained within the bounds of the general negotiations on the London Decisions.

I would also be very obliged to you if you could foresee giving the representatives of your Office that would necessitate German experts' instructions so that no final resolutions are taken before the High Commission is able to examine this problem in its entirety with the Federal Government.

Very sincerely yours

/s/ Andre Francois Ponsot

*Referred  
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Restitutions  
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Authority NND 968071  
By BAM NARA Date 7/9

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Box 28

100313

Enclosure No. 4 to EICOM Dispatch No. 2756 dated May 11, 1951

My dear M. Francois-Poncet:

Reference is made to your letter of May 17, 1951 with respect to the plan for transfer to the Federal Republic of the custody of certain cultural objects presently located at the Collecting Points at Wiesbaden and Munich.

The arrangements which I have in mind are very definitely restricted in scope and I believe that the impression may have been created that they are of much greater significance than is actually the case. Due to necessary staff reductions I will not, after the end of June, have sufficient qualified personnel to continue both the restitution of works of art and the proper discharge of custodial responsibilities with respect thereto. In order to be able to continue restitution activities after that date I will be forced to give up the custodial responsibilities of my office with respect to cultural objects and to shut down the Central Collecting Points at Wiesbaden and Munich.

*London* The arrangement with the Federal Government will be on a trusteeship basis and will not in any way involve the reserved power with respect to the restitution to Governments of cultural objects. All objects after transfer will remain accessible to United States personnel on my staff continuing the restitution of cultural property. This function will remain exclusively an activity of my office with which the Federal Republic will have no responsibility whatsoever. This is fully understood by all concerned and will be emphatically expressed in the understanding with the Federal Government. Finally the originals of all documents and records pertaining to the works of art in question will be retained by my Office so that the accountability of the Federal Republic will always be subject to exact determination.

I trust you will agree that a transfer arrangement thus limited in the scope can not seriously jeopardize the results of any negotiations which may be later undertaken with the Germans in light of the decisions of the Brussels Conference.

John J. McCloy  
United States High Commissioner  
for Germany

His Excellency  
Ambassador Andre Francois-Poncet,  
High Commissioner of the  
French Republic in Germany,  
Dresden Hotel,  
Bad Godesberg.

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Authority NND 968071  
By B.A.M. NARA Date 7/9

RG 59  
Lot 620-4  
Box 28

100314

PERSONAL

June 14, 1951

Dear (Tom:)

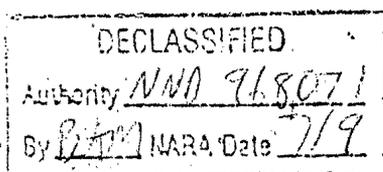
I am sending you by diplomatic pouch a confidential letter which I trust will reach you safely because I have been quite frank. In another envelop I am sending air mail documents for your information which I mentioned in the above letter.

I am delighted that you can stay on until August 1. After all, it is better than closing down on the thirtieth of June. What I had hoped, however, would be that the work would go on until it was properly completed which might mean that you would perhaps stay on a little longer than Faison if that should prove necessary. There is no question but what I have good support in the Department for the proper conclusion of the cultural restitution program in Germany. When I receive the report from HICOG, it may be possible to determine whether or not the work can be finished in just one more month.

I want to tell you and Lane that I am going to propose to Bancel, Harry Grier, Charles Kuhn, and Mason Hammond that a committee of former MFA&A officers be formed to interest themselves in the final prosecution of United States policies and in the general problem of the protection and preservation of cultural property and cultural institutions. When you two come back you would be valuable additional members. I think it would function best as an independent committee outside the government. It should have contact with our German friends like (Mr. Heydenreich). I'll let you know what Bancel and Harry have to say on this subject for I shall be seeing them next week.

There is a young man named Philip Hevenor who, with his wife Emily, is leaving for Europe on the twenty-first of June to get photographs and movies of reconstructed monuments and the collections which were looted and returned. He is a nice young man and a friend of (Alex Kiefer's). He was a captain at the Pentagon and the liaison officer

Mr. Thomas Carr Howe, Jr.,  
Cultural Affairs Adviser,  
OLC Hesse,  
APO 633, c/o Postmaster,  
New York, New York.



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Lot 620-4  
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between the Army and the Roberts Commission in 1945 and 1946 at the same time I was acting as liaison officer for Stated. He has a lot of enthusiasm and has worked since the war in various journalistic jobs. He comes from a wealthy family and has plenty of money to carry out his interests. I have encouraged him in every way because I feel that any publicity which it may receive only adds in getting support for reconstruction.

Sincerely,

(Ardelia R. Hall)

ARH:mms

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Authority <u>NND 918071</u>
By <u>BAW</u> NARA Date <u>7/9</u>

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Lot 620-4  
Box 28

100316

June 13, 1951 ]

INFORMAL-OFFICIAL

CONFIDENTIAL

Dear Tom:

Many thanks for your cable which was received thirteen minutes after midnight on June 12 and I got it yesterday morning. In extending the closing of the Munich CCP to August 1, I certainly hope that you and Herr von Schmidt are going to be able to go down there at the end of June. I am still greatly concerned that no reply has been received as to the disposition of the Law 19 property. I am sending by diplomatic pouch a copy of the memorandum on which the telegram #7535 was based. It is certainly plain from the disposition proposed for the German art libraries that it is most inadvisable to leave the disposition of these valuable properties to the discretion of any one else and this includes some Americans. We should, if possible, get an agreement for the return of Law 19 property to the rightful owners before it ever becomes an emergency issue.

*Law 19  
property*

I am also going to send you by diplomatic pouch copies of the recent cables on the German art libraries. I understand a memorandum is being prepared on the subject for (Mr. McCloy.) The line that is being taken is that the Germans have been wholly misinformed, that the information which was leaked to them was all wrong. If you will read the agreement carefully, I think you will find that the learned societies which own the libraries are not the ones who will be invited by the Union to participate in the administration. That is to be the group that sets themselves up as a German Academy in Rome, which they may choose to recognize. The required unanimous consent of four governments

*re: Bonn 922*

Mr. Thomas Carr Howe, Jr.,  
(Cultural Affairs Adviser, )  
HICOG, Property Division,  
Landesmuseum,  
Wiesbaden Central Collecting Point,  
Wiesbaden, Germany.

DECLASSIFIED  
Authority *NNN 968071*  
By *B. J. WARE* Date *7/9*

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CONFIDENTIAL

to determine the question of the title I believe will effectively preclude the return of the property to the original owners. This opinion is based on #3275 which I will send you with the other documents.

We have felt here that the French have shown quite a different attitude toward the Germans in the larger political issues and that it must be very narrow interest in Paris who would prejudice the good will of the Germans by such a minor gain as four libraries in Rome, and I hope it may be possible for you to obtain more intelligent cooperation.

The Department is fully aware of the questions which I have raised as to the effective and efficient administration of the libraries. The report which has already reached the Germans that the libraries have not been properly administered cannot be refuted because no qualified MFA&A officer has inspected the libraries since they were placed in the custody of the Union in 1946. It is unfortunate that just at present the officers who support me here are away on leave.

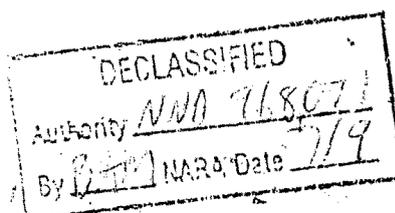
Have you ever obtained the documents on cultural property held in Austria and Eve Tucker's Final Report which I left with Frank Miller? Let me know as I can probably send you another copy so that you will have as much information on that score as I have. I hope you have seen the letter signed by Webb which was sent to Bancel. I sent a copy to Lane. I also enclose a corrected copy of an article which appeared in the Department of State Record which has already been forwarded by the Press Section to Germany for release.

Do you have any more information on the refusal of the Russians to return the collections which they have to Berlin? Has Dr. Justi resigned as Director of the Berlin Museums? If so, I presume it is more of the same propaganda which certain people in Berlin have been feeding the press both there and in the United States for the past three years.

With my best regards to you and to Lane,

Sincerely,

Arabella R. Hall  
Arts and Monuments Officer



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Lot 620-4  
Box 28

10031

REPRODUCED

Press Release No. 347

5 September 1951

Status of Reparations, Restitution and External Assets  
Clarified by High Commission Law

The Allied High Commission announced today the enactment of a law clarifying the status of German assets abroad which have been or are being subject to measures of liquidation in the countries where they are located, and of reparations taken out of Germany and of property restituted abroad since the end of the war. The title to the foreign assets covered by the new law had been taken from the German owners by Control Council Law No. 5 in 1945. That law prohibited the former German owner from asserting any right or making any claim to any such property.

A study of the new law will show that it does not impose any new or additional burdens upon Germany, nor does it take any new measures directed against German property or jeopardizing Germany's emerging sovereignty. It merely brings the legal status of the property up to date in line with the actual situation, and, indeed, removes inconsistencies, some of which up to now operated to Germany's disadvantage. Thus, in the countries which it covers, the new law will not apply, as Control Council Law 5 did, to German property that is not vested or liquidated by these countries, nor to Reichsmark securities issued in Germany. It leaves open the question of future treatment of these foreign assets. The Allied High Commission has advised the Federal Government that, as soon as the new law is enacted, Allied and German experts may meet together to examine this problem and to make an expert report thereon.

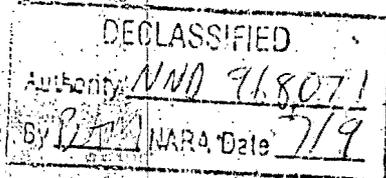
International agreements entered into by the governments of 19 countries at war with Germany and Allied agreements with certain neutral countries ("safehaven" accords) were an effort to avoid the unworkable schemes established for the payment of reparations after the First World War by substituting, for reparations out of current production, the application to reparation accounts of excess industrial equipment and of German external assets. Reparations rendered by Germany under the present agreement compensate the Allies for only a very small part of the damage actually suffered by them.

This new law reflects the fact that in accordance with international agreements arising out of the war, German property located in foreign countries was, under the laws of these countries, taken away from the German owner for the purpose of applying the proceeds of liquidation to the payment of German reparations. The law thus gives binding effect in Germany and on German citizens to transfers effected by other countries under their own laws with respect to German property within their jurisdiction. As regards reparations and restitution removals from Germany, the law extinguishes title of the former owner to such property. In consequence, it precludes any action in German courts challenging the validity of such transfers, deliveries, or liquidations.

The law in no sense provides for new expropriation, vesting or seizure. It does not affect the question as to whether and to what extent the individual owner, whose property was taken and applies to fulfil German obligations, may have a claim for compensation against the Federal Government.

Furthermore, the Allied High Commission law is applicable only to property located in a foreign country prior to the effective date of the law. In the principal countries which have made provision for the transfer and liquidation of German property, earlier dates have in fact been adopted. In any event, the law specifically excludes any property brought into or acquired in a foreign country since the end of the war in the course of authorized foreign trade, and will free title to such other assets which any foreign country, for one reason or another, does not vest and liquidation.

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It is noteworthy that the new legislation specifically exempts German-issued securities, expressed in Reichsmark, which may be located abroad. Thus, there will be no legal barrier in the Federal Republic to prevent the German owner from asserting his title to such securities under the "Wertpapierbereinigungsgesetz" or otherwise, nor to prevent the Federal Government from taking any legislative action which it considers appropriate with regard to these securities.

The law will not be applicable to those countries in which, under the respective peace treaties, German property has been assigned to the USSR (i.e. property in Bulgaria, Finland, Hungary, Poland, and Rumania), nor to certain other countries in or with which measures for disposing of German assets in accordance with treaty obligations have not been finally determined (i.e. Austria, Portugal, Switzerland, Trieste and Turkey). Control Council Law No. 5 will continue for the present to apply to assets located in these countries.

- end -

Gesetz der Alliierten Hohe Kommission stellt Rechtslage in Bezug auf deutsches Auslandsvermogen und andere in Wege der Reparation oder Rueckerstattung erfasste Vermogensgegenstaende klar.

Die Alliierte Hohe Kommission gab heute die Verabschiedung eines Gesetzes zur Klarstellung der Rechtslage deutscher Auslandsvermogen, die Liquidierungsmassnahmen in den Laendern, in denen sie sich befinden, unterworfen sind oder unterworfen werden, bekannt. Das Gesetz betrifft ferner aus Deutschland in Wege von Reparationen entnommene Vermogenswerte sowie solche, die in Ausland seit Beendigung des Krieges zurueckerstattet wurden. Der Rechtsanspruch auf das von dem neuen Gesetz erfassten Auslandsvermogen wurde durch Kontrollratsgesetz Nr. 5 im Jahre 1945 den deutschen Eigentuemern genommen. Das Gesetz untersagte den ehemaligen deutschen Besitzer, irgendwelche Rechte auf solches Vermogen geltend zu machen oder irgendeinen Anspruch darauf zu stellen.

Eine Pruefung des neuen Gesetzes zeigt, dass es Deutschland keine neuen oder zusaetzlichen Lasten auferlegt, noch dass es neue gegen das deutsche Vermogen gerichtete Massnahmen vorsieht, beziehungsweise die sich entwickelnde Souveraenitaet Deutschlands gefaehrdet. Das Gesetz bringt lediglich die Rechtslage des Vermogens in Einklang mit der gegenwaertigen Sachlage und beseitigt Widersprueche, von denen sich bis heute einige zum Nachteil Deutschlands auswirkten. Demnach erstreckt sich das neue Gesetz nicht in den Laendern seines Gueltigkeitsbereiches - wie dies im Kontrollratsgesetz Nr. 5 vorgesehen ist - auf das deutsche Vermogen, das von diesen Laender nicht uebernommen beziehungsweise liquidiert ist. Es ist auch nicht auf in Deutschland ausgegebene Reichsmarkwertpapiere anwendbar. Es laesst die Frage der zukuenftigen Behandlung dieser deutschen Auslandsvermogenswerte offen. Die Alliierte Hohe Kommission hat der Bundesregierung mitgeteilt, dass sobald das neue Gesetz erlassen ist, alliierte und deutsche Fachleute zusammentreffen sollten, um diese Frage einer Pruefung zu unterziehen und darueber einen gutachtlichen Bericht zu verfassen.

Internationale Abkommen, die von den Regierungen von 19 Laendern, die mit Deutschland Krieg fuehrten, geschlossen wurden und alliierte Abkommen, die mit gewissen neutralen Laendern getroffen wurden ("safehaven" Uebereinkommen) zielten darauf ab, die nicht-ausfuhrbaren Verfahren, die nach dem ersten Weltkrieg fuer die Zahlung von Reparationen vorgesehen worden waren, zu vermeiden. In dem sie anstelle der Entnahme von Reparationen aus der laufenden Produktion, die Anrechnung ueberschuessiger industrieller Anlagen sowie die deutschen auslaendischen Vermogenswerte auf Reparationsansprueche festsetzten. Die nach diesen Verfahren von Deutschland geleisteten Reparationen entschaedigen die Alliierten nur zu einem sehr kleinen Teil fuer die von ihnen tatsaechlich erlittenen Schaeden.

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By [Signature] NARA Date 7/9

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Hinsichtlich der Vermoegenswerte im Ausland gibt das Gesetz der Tatsache Ausdruck, dass gemass internationalen Abmachungen, die sich aus dem Krieg ergeben, die deutschen im Ausland befindlichen Vermoegenswerte nach den Gesetzen der entsprechenden Laender den deutschen Eigentuemern zu dem Zwecke weggenommen wurden, den Liquidationserloes zur Zahlung der deutschen Reparationen zu verwenden. Somit verleiht das Gesetz mit Wirkung fuer Deutschland und fuer deutsche Staatsangehoerige solchen Uebertragungen Rechtswirksamkeit, die von anderen Laendern nach ihrer eigenen Gesetzgebung mit Bezug auf die ihrer Zustaendigkeit unterliegenden deutschen Vermoegenswerte durchgefuehrt wurden. Was die aus Deutschland zu Reparations- und Wiedergutmachungszwecken entfernten Vermoegensgegenstaende anbelangt, so hebt das Gesetz den Rechtstitel des fruheren Eigentuemers auf. Infolgedessen schliesst es jede Klage und sonstigen Antrag vor deutschen Gerichten aus, in welchem gegen die Gueltigkeit derartiger Uebertragungen, Ablieferungen oder Liquidationen Einwendungen erhoben werden.

Das Gesetz sieht keineswegs irgendeine neue Enteignung, Uebernahme oder Beschlagnahme vor. Es beruehrt nicht die Frage ob und in welchem Ausmasse der einzelne Eigentuerer dessen Vermoegenswerte uebernommen und zur Erfuellung deutscher Verpflichtungen verwandt wurde, einen Entschadigungsanspruch gegen die Bundesregierung haben kann.

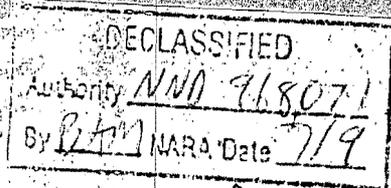
Ferner ist das Gesetz der Alliierten Hohen Kommission lediglich auf Vermoegenswerte anwendbar, die sich vor dem Zeitpunkt des Inkrafttretens des Gesetzes im Ausland befanden. In den Hauptlaendern, die Bestimmungen fuer die Uebertragung und Liquidation deutscher Vermoegenswerte getroffen haben, sind tatsaechlich fruhere Termine festgesetzt worden. Jedenfalls schliesst das Gesetz von seiner Anwendbarkeit ausdruuecklich jeden Vermoegenswert aus, der seit Beendigung des Krieges in Rahmen des zugelassenen Aussenhandels in das fremde Land eingebracht oder dort erworben wurde. Das Gesetz gibt das Recht auf solche anderen Vermoegenswerte frei, die ein auslaendischer Staat aus diesem oder jenem Grund nicht uebernimmt und liquidiert.

Es ist bemerkenswert, dass die neue Gesetzgebung ausdruuecklich die von Deutschland ausgegebenen auf Reichsmark lautenden Wertpapiere ausnimmt, die sich im Ausland befinden moegen. Es wird somit in der Bundesrepublik kein gesetzliches Hindernis den deutschen Eigentuemern daran hindern, seine Rechte auf solche Wertpapiere nach dem Wertpapierbereinigungsgesetz oder anderwaertig geltend zu machen. Auch wird die Bundesregierung nicht an etwaigen, ihr geeignet erscheinenden gesetzgeberischen Massnahmen mit Bezug auf diese Wertpapiere gehindert.

Das Gesetz findet nicht auf solche Laender Anwendung, in denen nach den massgebenden Friedensvertraegen deutsches Eigentum auf die Sowjetunion uebertragen wurde (z.B. Eigentum in Bulgarien, Finnland, Ungarn, Polen, und Rumacien), noch auf gewisse andere Laender, in denen oder mit denen Massnahmen hinsichtlich der Verfuegung ueber deutsche Vermoegenswerte nach Massgabe vertraglicher Verbindlichkeiten noch nicht endgueltig bestimmt worden sind (z.B. Oesterreich, Portugal, die Schweiz, Triest und die Tuerkei).

Das Kontrollratsgesetz Nr. 5 wird einstweilen weiterhin fuer Vermoegenswerte die sich in diesen Laendern befinden, anwendbar bleiben.

- Ende -



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100321

Allied High Commission Press Liaison Offices  
Petersberg

Background Information for Correspondents No. 157

5 September 1951

Following should be read in conjunction with HC press release No. 347 - "Status of Reparations, Restitution and External Assets Clarified by High Commission Law" also issued today.

There seems to be considerable misunderstanding on the part of sections of the German public as to the present status of German external assets and the effect on these assets of the new Allied High Commission Law.

German property abroad which has been vested has been and is being utilized in satisfaction of reparation claims against the Germans pursuant to international agreements, including the Paris reparations agreement entered into by the governments of 19 countries at war with Germany, and Allied agreements with certain neutral countries ("safehaven" accords). In point of fact, the German owner was deprived of his property a long time ago as a result of the action of the foreign countries.

Control Council Law No. 5 provided for the vesting in a German external property commission of all rights, title and interest in respect of German property abroad. The continued application of Control Council Law No. 5 to all countries is now unrealistic.

It is pointed out that these assets have been taken for reparation purposes and it has been made clear at all times to the Federal Government that the Allies could not and would not accept any proposition involving the application of these former assets to the settlement of the German external indebtedness. The German representatives at the preliminary conference on German debts in London in July were informed, however, that the loss of German external assets is recognized as one of the many factors relevant to the assessment of Germany's capacity to pay and to make transfers in foreign currency.

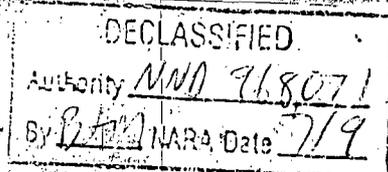
The new law will do no more than secure recognition in Germany and by German citizens of transfers of title effected in foreign countries and will prevent needless disputes in German courts. It in no way affects the question of possible claims for compensation by the former owners of property against the Federal Government.

It should also be pointed out that the new law does not apply to German-owned German-issued Reichsmark securities located abroad. Nor does the new Allied High Commission Law apply to property acquired by a German in a foreign country after the effective date of the law nor to any property that was acquired in the course of authorized trade since the end of the war.

After an exchange of views, limited to technical questions, between Allied and German experts, a number of amendments were introduced into the text in an endeavour to meet German objections. The High Commission has stated its willingness to arrange further joint meetings of experts to consider any problems of implementation which the law may raise.

It has been necessary to keep Control Council Law No. 5 in effect with respect to a certain number of countries. These include countries in which German assets are assigned to the Soviet Union under peace treaties, and countries in which the disposition of German assets has not yet been finally determined.

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Box 28

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Das Folgende dient zur Unterrichtung der Vertreter der Presse im Zusammenhang mit der heute ebenfalls veröffentlichten Presseverlautbarung Nr. 347 der Alliierten Hohen Kommission ueber "Gesetz der Alliierten Hohen Kommission stellt Rechtslage in Bezug auf deutsches Auslandsvermoegen und andere im Wege der Reparation Rueckerstattung erfasste Vermoegensgegenstaende klar."

Es hat den Anschein, dass bei einem Teil der deutschen Oeffentlichkeit erhebliche Missverstaendnisse ueber die gegenwaertige Rechtslage der deutschen Auslandsvermoegenswerte sowie ueber die Auswirkungen des neuen Gesetzes der Alliierten Hohen Kommission auf diese Vermoegenswerte bestehen.

Das uebernommene deutsche Auslandsvermoegen wurde und wird zur Befriedigung von Reparationsanspruechen gegenueber Deutschland vorwandt, und zwar genaess internationaler Abkommen, einschliesslich des von den Regierungen von 19 Laendern, die mit Deutschland Krieg fuehrten, geschlossenen Pariser Reparationsabkommens, ferner genaess der alliierten Abkommen, die mit gewissen neutralen Laendern getroffen wurden ("Safehaven" Uebereinkommen). Tatsaechlich waren als Ergebnis der seitens der auslaendischen Staaten ergriffenen Massnahmen Vermoegenswerte ihren deutschen Eigentuemern seit langer Zeit vorenthalten worden.

Gesetz Nr. 5 des Kontrollrates sah vor, dass alle Rechte und Ansprueche auf irgendwelches ausserhalb Deutschlands befindliches Vermoegen durch die Kommission fuer das deutsche Auslandsvermoegen uebernommen werden sollten. Die weitere Anwendung des Kontrollratsgesetzes Nr. 5 in allen Laendern ist nicht realistisch.

Es wird darauf aufmerksam gemacht, dass diese Vermoegenswerte fuer Reparationszwecke vorwandt wurden. Die Bundesregierung ist stets eindeutig darauf hingewiesen worden, dass die Alliierten keinerlei Vorschlaege annehmen wuerden und koemnten, die eine Anrechnung dieser fruheren Vermoegenswerte bei der Regelung der deutschen Auslandsschulden zum Gegenstand haetten. Die deutschen Vertreter wuerden jedoch im Juli anlaesslich der in London abgehaltenen vorlaeufigen Konferenz ueber die deutschen Auslandsschulden davon in Kenntnis gesetzt, dass der Verlust der deutschen Auslandsvermoegenswerte als einer von vielen Faktoren angesehen wuerde, der fuer die Festsetzung der deutschen Zahlungsfahigkeit und seiner Fahigkeit, Ueberweisungen in Devisen vorzunehmen, bestimmend sein wuerde.

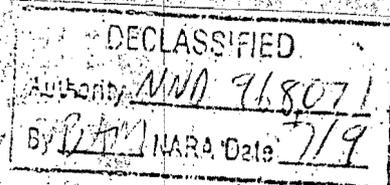
Das neue Gesetz bezweckt nichts anderes, als die Anerkennung der im Ausland vollzogenen Rechtsuebertragungen in Deutschland und durch deutsche Staatsangehoerige sicherzustellen und nutzlose Streitigkeiten vor deutschen Gerichten zu vermeiden. Das Gesetz beruehrt in keiner Weise die Frage moeglicher Ersatzansprueche seitens ehemaliger Vermoegensbesitzer gegenueber der Bundesrepublik.

Es wird ferner darauf hingewiesen, dass das neue Gesetz keine Anwendung auf im Ausland befindliche, in deutschem Eigentum stehende und auf Reichsmark lautende Wertpapiere findet. Das neue Gesetz der Alliierten Hohen Kommission findet ebenfalls keine Anwendung auf das nach den Zeitpunkt seines Inkrafttretens von einem deutschen im Ausland erworbene Vermoegen, desgleichen nicht auf Vermoegen, welches seit Ende des Krieges in Rahmen des erlaubten Wirtschaftsverkehrs erworben wurde.

Nach einem auf technische Fragen beschaerzten Gedankenaustausch zwischen alliierten und deutschen Fachleuten wurden, in dem Bestreben deutschen Einwaendungen zu entsprechen, eine Reihe von Aenderungungen in den Gesetzestext eingefuegt. Die Hohe Kommission hat Bereitwilligkeit erklart, weitere gemeinsame Sitzungen von Fachleuten zu vereinbaren, um Durchfuehrungsfragen zu behandeln, die aus dem Gesetz entstehen koennen.

Es war erforderlich, Kontrollratsgesetz Nr. 5 bezueglich eine gewisse Anzahl von Laendern in Kraft zu belassen. Dazu gehoeren die Laender, in denen deutsche Vermoegenswerte auf Grund von Friedensvertraegen der Sowjetunion zugesprochen wurden, sowie Laender, in denen die Verfuegung ueber deutsche Vermoegenswerte noch nicht endgueltig entschieden worden ist.

- Ende -



R6 59  
Lot 62D-4  
Box 28

100323

**OUTGOING TELEGRAM**

INDICATE:  COLLECT  
 CHARGE TO

# Department of State

*Full*

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SENT TO: (Hicog) FRANKFORT

REPTD INFO: Embassy LONDON BY POUCH  
Embassy PARIS BY POUCH

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Part 7 (Hicog) Draft Convention on Acts, Programs and Certain Interests WLD constitute, except as hereinafter indicated, SATIS contract on FOM interests:

1) ART 14 SHLD be amended (a) in accordance PARA 17 of FORMINS INSTRS and (b) persons entitled to claim SHLD be specified as in PARA (d) (iii) of Recommendation 1 to ICS/P(51)41 Second Revise.

2) No objection ART 16, but note it CLD be covered in contract on maintenance Allied LEGIS. Prescription and limitation of action CLD be handled same manner.

3) ART 20 SHLD be deleted. Policy declaration SHLD be made by FEDREP prior conclusion contractual arrangement, but SHLD not be embodied in it. Believe you SHLD ascertain as soon as possible whether GERS will make such declaration since discussions in Study Group indicated it might take considerable time to work out Allied agreement on terms of undertaking which WLD be requested in event FEDR P refused make declaration or if it SHLD insist on reciprocity. Re possible undertaking, you SHLD not be guided by ICS/P(51)100, to which you refer in footnote 1 to ART 20; this was UK proposal and was not accepted by US.

Dist. Desired  
(Office Only)

DEPT notes ART 20 differs in three material respects from language

in

Drafted by:

GER:GPA:GMBaker:agn 10/3/51

Telegraphic translation and

classification approved by: Daniel P. Margolis

Clearances:

GER Jones ~~GER Raymond~~ L/GER Raymond GPA Hillebrand

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By: [Signature] NARA Date: 7/7

Lot 620  
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In Recommendation 10 (c) of ICG/P(51)41 Second Review:

- a) Phrase QTE in general UNQTE is omitted;
- b) ART 20 WLD require FEDREP to accord QTE national and most-favored nation treatment UNQTE whereas ICG recommendation is that FEDREP SHLD QTE in general UNQTE accord QTE national and most-favored nation treatment UNQTE;
- c) Final sentence prohibiting FEDREP from acceding any other country treatment more favorable than that provided in its policy declaration is new.

Re (a) and (b), QTE national and most-favored nation treatment UNQTE is preferred policy and was urged by DEPT in ICG discussions, and phrase QTE in general UNQTE was designed give FEDREP necessary flexibility to deal with exceptional problems. Re (c), this provision was inserted in PARA 6 of ICG/P(51)41 Final only in reference to Recommendations 6 and 9 of ICG/P(51)41 Second Review and is not appropriate to Recommendation 10.

4) ART 21, PARA 1, SHLD specify date on which person must have had US nationality. Suggest you consider whether effective date of Convention WLD be appropriate.

5) ART 22 SHLD be removed from Convention and, as provided ICG/P(51)41 Final, QTE arbitral commission UNQTE SHLD be made SUBJ of separate agreement which will be open to accession by other nations. Agreement SHLD expressly state that matters over which Commission has jurisdiction shall not be SUBJ arbitration or any other INTERNATI. or mixed tribunal. In addition to ARTS 5, 14, and 19, COMI SHLD also have jurisdiction over ARTS corresponding to Recommendations (2), (3), (4) and (5) of ICG/P(51)41 Second Review; apparently you interpreted QTE Restoration of property, rights and interests UNQTE in ART 1 (c) (i) (aa) of 41 Second Review as applying only to RES 1 QTE GEN Undertaking UNQTE, whereas, QTE phrase referred to title

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of SEC I A of report and hence to all recommendations thereunder except RES 4.

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By <i>[Signature]</i> NARA Date <i>7/9</i>

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**OUTGOING TELEGRAM**

**Department of State**

*H. Hall*  
03599

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Ambassador PARIS BY POUCH

Part II, ART 5, Hicog Draft Convention on Acts, Programs, etc. WLD be SATIS contract on external restitution with FOL amendments:

1) Proposed cut-off date for filing claims for looted cultural property SHLD be deleted. Such provision was considered and rejected during Study Group discussions. Large percentage of items eligible for restitution under definition QTE cultural property UNQTE probably will have been looted from public collections; few, if any, of great public collections have been completely checked and inventoried and we can not assume this will be done by any fixed date. If GERS SHLD raise question, suggest you point out US GOVT has no cut-off date and proposes continue indefinitely acceptance claims for looted cultural property and procedures for search, recovery, and restitution to country of origin, including FEDREP. In this connection you may find ART in State DEPT Bulletin No. 635, AUG 27, 1951 useful.

2) Provision that FEDREP need not accept previously rejected claim for looted property SHLD also be made applicable jewelry, silverware, and antique furniture.

3) Definition of loot and duress in PARA 1 (b) SHLD be modified to conform with PARAS (d), (e), and (f) of Annex A to Appendix I to

JGG/P(51)89 Final.

ACHESON

Drafted by:

Telegraphic transmission and classification approved by:

William A. Fowler

GMR: GEA: GWF Baker: am 10/3/51

~~SECRET~~

Clearances:

GPA Hillenbrand I/GER Raymond ICD Hall

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By *[Signature]* NARS Date *7/9*

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# Department of State

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OCT 9 7 10 PM '51

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Re Part VI, ART 13, QTE Possible Claims by GERS UNQTE, Hicog draft

Convention on Acts, Programs, etc. and PARA 24(f) FONMINS INSTRS.

DEPT notes certain differences in wording between ART 13 and PARAS 2 and 6 of IGG/P(51)91 Final. Believe latter more precise and SHLD be used. Contract SHLD also provide specifically that FEDREP will take appropriate action to insure accomplishment purposes of PARAS 2 and 6.

Separate INSTRS being sent on footnote 1 to ART 13.

AGNESON

Dist.  
Desired  
(Offices  
Only)

Drafted by: GER:GHA:CWBaker:sgw 10/9/51

Telegraphic transmission and  
classification approved by:

W.A. Fowler

Clearances:

L/GER Raymond GPA Hillenbrand

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*Return to Clifford*

S E C R E T

(Allied Draft for Discussion with German Rapporteur Group)

AGREEMENT ON ACTS AND CERTAIN INTERESTS OF THE THREE POWERS AND THE TRANSFER OF CERTAIN RESPONSIBILITIES TO THE FEDERAL REPUBLIC

SPCOM/P(51)23 (E)  
8 November 1951

PART V - EXTERNAL RESTITUTION

Article 1

1. Upon the entry into force of this Agreement, the Federal Republic will establish and staff the administrative agency, as prescribed in the Annex to this Part, for the search for, recovery and return to claimant governments of:

- (a) looted cultural property, a claim for which has been presented by a government to the appropriate authorities of the Three Powers or is presented to the appropriate German authorities, or
- (b) looted jewelry, silverware or antique furniture, of substantial value, a claim for which presented by a government has been received by the Three Powers prior to the effective date of this Agreement.

The Federal Republic need not accept any claim described above which has been rejected as invalid by the appropriate authorities of the Three Powers in Germany, but shall accept a statement by the claimant government that there has been no such previous rejection in the absence of affirmative proof to the contrary.

2. An article shall be deemed to have been looted if it is identified by the claimant government as having been acquired from its territory, during the occupation of that territory by German forces or authorities, by those forces or authorities or their individual members whether or not pursuant to orders, and in any of the following manners:

- (a) duress with or without violence, larceny, requisition or other form of dispossession by force, or
- (b) in the case of cultural property only, purchase or gift without the consent of the claimant government;

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Entry 627-4  
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Authority: RMP 968071
By: AT, NARA Date: 7-8-99

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S E C R E T

SPCOM/P(51)23 (E)  
8 November 1951

*but not re cult. prop.*

provided that in the case of jewelry, silverware and antique furniture, it shall be a valid defense for the German holder to prove that the property was removed from the claimant country after acquisition in good faith and for value, even if payment was made in occupation currency.

3. The term "cultural property" shall mean movable goods of religious, artistic, documentary, scholarly or historic value or importance, including all objects of a type customarily found in museums, public or private collections, libraries or historic archives. The term "antique" shall mean one hundred or more years old on the date of the coming into force of this Agreement. The term "substantial value" shall mean a value of not less than 100,000 French francs at the 1 January 1951 purchasing power.

4. The provisions of this Part shall apply to private, as well as public property removed from any country occupied in whole or in part by the German Armed Forces or the Forces of her Allies.

5. Countries so occupied are listed below together with dates from which occupation is deemed to have taken place:

<u>COUNTRY</u>	<u>DATE</u>	<u>COUNTRY</u>	<u>DATE</u>
France	17th May 1940	Yugoslavia	6th Apr 1941
Norway	9th Apr 1940	Poland	1st Sept 1939
Denmark	9th Apr 1940	Austria	12th Mar 1938
Belgium	10th May 1940	Roumania	12 Sept 1944
Luxembourg	10th May 1940	Hungary	20 Jan 1945
Netherlands	10th May 1940	Italy	3rd Sept 1943
Czechoslovakia	1st Apr 1939	Finland	19th Sept 1944
Greece	28th Oct 1940	Bulgaria	28th Oct 1944
Russia	22nd Jun 1941		

Article 2

1. The Federal Government acknowledges the continued right of the Three Powers to make and implement arrangements for the return to any country occupied

-2-

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By <i>AT</i> NARA Date <i>7-8-99</i>

100330

S E C R E T

SPCOM/P(51)23 (E)  
8 November 1951

in whole or in part by the German armed forces or authorities, all looted securities [of German issue, expressed in German currency,] which were removed from that country during the German occupation.

2. In the event of the Three Powers exercising the right reserved in paragraph 1 above the Federal Government will cooperate fully in the tracing and recovery of the looted securities and will ensure the cooperation of the Securities Revalidation Agencies to this end.

3. The term "looted securities" as used in this Article means securities taken from their owner or possessor by duress, with or without violence, larceny, requisition or other form of dispossession by force or which have been acquired in the occupied country by a person or institution specializing in the removal of securities from occupied territories to Germany.

Article 3

The provisions of SHAEF and Military Government Laws 52, as amended, and the regulations, orders, licenses and instructions issued thereunder, applicable to the property referred to ~~in Article 1 and 2 of this Part,~~ shall be maintained in force.

Article 4

1. Notwithstanding any inconsistent German legislation, any person may recover by action in a German court property looted from him, the owner of such property, or from his predecessor in interest, in any territory occupied by German forces or authorities, by the action of such forces or authorities or their individual members, whether or not pursuant to orders. The period of prescription under German law for acquiring good title to such looted property shall be that applicable under German law to stolen property, or May 8, 1955, whichever is later.

2. The term "looted property" as used in this Article means property, other than railroad rolling stock, taken from its owner or possessor by duress, with or without violence, or larceny.

-3-

S E C R E T

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S E C R E T

SPCOM/P(51)23 (E)  
8 November 1951

Article 5

The Federal Republic will compensate claimants who are entitled to restitution under Articles 1 or 4 of this Part or who have on the date of the entry into force of this Agreement already had their claims approved by one of the Three Powers, whenever the property claimed has been consumed in Germany, destroyed, stolen, or otherwise disposed of after identification but before return to the claimant.

Article 6

Disputes arising under the provision of this Part or under the legislation referred to in this Part shall be subject to the ~~exclusive~~ jurisdiction of the arbitral commission referred to Article \_\_\_ of Part X of this Agreement, in accordance with the terms of the charter of that Commission.

*Attached Memo covers:*

*Gen. Reg. or Admin. implementation  
Completion Rally Stocks + Cult. Restit.*

-4-

S E C R E T

R6 59  
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BOX 28

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Authority #A968071
By AT NARA Date 7-8-99

100332



OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY  
 APO 757-A, c/o Postmaster New York, N.Y.  
 Office of Public Affairs  
 Division of Cultural Affairs

OFFICIAL BUSINESS--INFORMAL

February 11, 1952

Dear Ardelia:

Attached is a complete set of letters (in copies) dealing with the transfers to the Federal Government of the custodianships of works of art which had hitherto been the responsibility of the minister presidents in Hesse and Bavaria.

I believe that you would like to have the important documents for your files.

With best regards,

Sincerely yours,

*Edgar*

Edgar Breitenbach  
 Cultural Institutions Officer  
 Information Centers Advisory Staff

Miss Ardelia R. Hall /  
 Monuments & Fine Arts Officer  
 Department of State  
 Washington 25, D.C.

RGS 9  
 Lot 620-4  
 Box 20

4-9-64  
 AUTHORITY NND 96807L  
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100333

Federal Republic of Germany  
The Federal Chancellor  
400-09 VI/9434/51

Bonn, January 4, 1952

His Excellency  
United States High Commissioner  
Mr. John J. McCloy  
Mehlem/Rhein

Dear Mr. High Commissioner:

I have the honor of confirming receipt of your letter of November 20, 1951, which refers to the taking over by the Federal Republic of the direct trusteeship concerning certain cultural objects. I have taken note with satisfaction that you consider the settlement envisaged in our former correspondence and in the discussions held by your experts and ours, the expression of a formal agreement concluded between the Office of the U.S. High Commissioner and the Federal Republic.

The Federal Government will now establish the envisaged agency for the administration of the trusteeship concerning the above cultural objects. That agency will be under the control of the Foreign Office. The former German Committee for the Restitution of Objects of Art will assist it as an experts body acting in an advisory capacity.

The head of that agency, Professor Dr. Count Wolff Metternich, has been ordered to contact immediately Herr Edgar Breitenbach, of the HICOG Office for Public Affairs - whom you mentioned in your letter of November 20, 1951 - to fix a date at which the objects and files will be taken over and to make the necessary arrangements.

Professor Dr. Count Metternich has been further ordered to make the required arrangements with the minister-presidents of Bavaria and Hesse for taking over the trusteeship formerly exercised by them.

It is with gratitude that I have taken note of the fact that you transmitted to your Government my request that the Federal Government be supported in its efforts to bring about a return of the objects of art belonging to the museums of Kassel, Kiel and Luebeck and at present located in Austria, and that you will inform the Federal Government about the further development of that matter.

Accept, Mr. High Commissioner, the assurance of my sincerest consideration.

/s/ Adenauer

Kus/la

RG 59  
Lot 620-4  
Box 20

4-9-76  
BY J. NARA  
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and mark its assumption of responsibility. Mr. Edgar Breitenbach of the HICOG Office of Public Affairs is authorized to enter into all necessary and appropriate arrangements in place of the HICOG representatives designated in my letter of April 16th.

The assumption by the Federal Republic of the custody of the cultural objects presently held in trust by the Land Bavaria and of those similarly held by the Land Hesse and the time of the transfer of responsibility therefor should be similarly fixed by some more or less formal method of delivery to be worked out between the Federal Republic Committee and the representatives of those Laender. I have asked the Land Commissioners of Hesse and Bavaria to notify the respective Ministers-President in writing of the termination of further trusteeship functions and responsibilities of the respective Laender as of the time of delivery, in each case, to the Federal Republic.

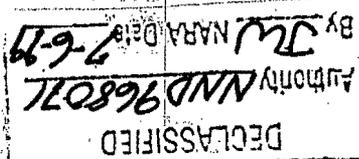
I have communicated to my government your request for assistance with respect to the art treasures of the museums of Kassel, Luebeck and Kiel, which at present are located in Austria. I will notify you of further developments in this matter.

Sincerely yours,

John J. McCloy  
United States High Commissioner  
for Germany

PUB:ECR:IC-EBreitenbach/ek  
October 18, 1951  
6825/8485

RGS 9  
Lot 620-4  
Box 20



100336

Office of Economic Affairs  
16 Frankfurt am Main

10/25/51

Dear Dr. Shuster:

Enclosed is a letter proposed for your signature to the Minister President. The proposed letter, which is self-explanatory, provides for termination of the trusteeship of certain cultural objects by the Land Bavaria upon the delivery thereof into the custody of the Federal Republic. The trusteeship of the Land Bavaria is based on a letter by the former Director of the Office of Military Government, Murray D. Van Wagoner, to the Minister-President, dated August 3, 1948.

(HICOG and the Federal Republic have completed arrangements whereby further custody and responsibility with respect to the cultural objects in question will be transferred to the Federal Republic. These arrangements are well known to the Bavarian State authorities since Dr. Eberhard Hanfstaengl, director general of the Bayerische Staatsgemaldesammlungen, and Professor Dr. Ludwig Heinrich Heydenreich, director of the Zentralinstitut fuer Kunstgeschichte, have both participated in the deliberations which led to such arrangements. Excepted from the transfer are the art objects from the Alt Aussee and other Austrian repositories which are scheduled for delivery to United States authorities in Austria for further disposition.

Attached for your further information is a copy of a letter proposed for Mr. McCloy's signature to the Federal Chancellor, together with copies of prior correspondence on the same subject, which is self-explanatory. Mr. McCloy has agreed to the text.

Will you please advise if you agree to dispatch the letter proposed for your signature. We would appreciate your comment by October 31.

It is requested that the proposed letter to Dr. Ehard be held, and not dispatched by you until we have your comments, and have notified you that Mr. McCloy has dispatched his letter to the Chancellor.

Sincerely yours,

Frank J. Miller  
Deputy Director  
Office of Economic Affairs

Dr. George N. Shuster,  
Land Commissioner for Bavaria,  
28 Ludwig Strasse,  
Munich.

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Lot 620-4  
Box 20

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100337

Office of Economic Affairs  
16 Frankfurt am Main

10/25/51

Dear Mr. Newman:

Enclosed is a letter proposed for your signature to the Minister President. The proposed letter, which is self-explanatory, provides for termination of the trusteeship of certain cultural objects by the Land Hesse upon the delivery thereof into the custody of the Federal Republic. The trusteeship of the Land Hesse is based on your letter to the Minister President dated June 23, 1948.

HICOG and the Federal Republic have completed arrangements whereby further custody and responsibility with respect to the cultural objects in question will be transferred to the Federal Republic. These arrangements are well known to the Hessian State authorities since Professor Dr. Ernst Holzinger is also a member of the committee designated by the Federal Government to accept delivery on its behalf of the cultural properties in question.

Attached for your further information is a copy of the letter proposed for Mr. McCloy's signature to the Federal Chancellor, together with copies of prior correspondence on the same subject, which is self-explanatory. Mr. McCloy has agreed to the text.

Will you please advise if you agree to dispatch the letter proposed for your signature. We would appreciate your comment by October 31.

It is requested that the proposed letter to Dr. Zinn be held, and not dispatched by you until we have your comments, and have notified you that Mr. McCloy has dispatched his letter to the Chancellor.

Sincerely yours,

Frank J. Miller  
Deputy Director  
Office of Economic Affairs

Dr. James R. Newman,  
Land Commissioner for Hesse,  
Landeshaus 226,  
Wiesbaden.

100338

RG 59  
Lot 62D-4  
Box 20

DECLASSIFIED  
Authority NND 96807L  
By JWA Date 7-6-97

OFFICE OF THE LAND COMMISSIONER FOR BAVARIA

My dear Dr. Ehard:

By agreement with the Office of the United States High Commissioner for Germany, the Federal Republic will assume direct custodial supervision and responsibility with respect to certain cultural objects now in possession of the Office of the High Commissioner or held in temporary trust by the Laender Hesse and Bavaria. The cultural objects held in trust by the Land Bavaria which are to be transferred to the custody of the Federal Republic are those as yet undisposed of objects, the custody of which was transferred to the Land Bavaria by the United States Occupation authorities pursuant to a trust arrangement. The basic conditions of this trust are set forth in a letter of the Land Director of the Office of Military Government for Bavaria to the Minister President, dated August 3, 1948.

Objects from Austrian repositories presently segregated and held in the east exhibition gallery of the main court on the ground floor of the Munich Central Collecting Point are excepted from this transfer. They shall revert to the possession of the U.S. High Commission upon receipt of this letter and you shall have no further trusteeship functions and responsibilities with respect to these objects.

The Office of the United States High Commissioner and the Federal Republic are now ready to execute their agreement with respect to the above-described transfers of custody and responsibility of cultural objects. This will require a transfer of the objects in question by the Land Bavaria, together with pertinent records, to the Committee headed by Herrn Staatssekretar a.D. Dr. Sattler, which was designated by the Federal Republic to accept delivery on its behalf. There would appear to be no impediments to a rapid conclusion of this transfer since the representatives of the Land Bavaria (Herr Generaldirektor der Bayerischen Staatgemaelde Sammlungen Dr. Eberhard Hanfstaengl and Professor Dr. Ludwig Heinrich Heydenreich) have been

informed

Dr. Hans Ehard,  
Minister President of Land Bavaria,  
7 Prinzregentenstrasse,  
Munich.

100339

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49-6  
By J. M. NARA Date  
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informed of and have participated in the arrangements made by the Office of the U.S. High Commissioner and the Federal Republic.

The assumption by the Federal Republic of the custody of the cultural objects presently held in trust by the Land Bavaria and the time of the transfer of responsibility therefor should be definitely fixed by some more or less formal method of delivery to be worked out between the Federal Republic Committee and the representatives of the Land Bavaria.

Further, trusteeship functions and responsibilities of the Land Bavaria, with respect to the cultural objects to be transferred, shall terminate as of the time of delivery to the Federal Republic.

Sincerely yours,

George N. Shuster  
Land Commissioner for Bavaria

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Authority NND 968071  
By SPW/NARA Date 7-6-96

My dear (Mr. Zinn):

By agreement with the Office of the United States High Commissioner for Germany the Federal Republic will assume direct custodial supervision and responsibility with respect to certain cultural objects now in possession of the Office of the High Commissioner or held in temporary trust by the Land Hesse and Bavaria. The cultural objects held in trust by the Land Hesse which are to be transferred to the custody of the Federal Republic are those as yet undisposed-of objects, the custody of which was transferred to the Land Hesse by the United States Occupation authorities pursuant to a trust arrangement. The basic conditions of this trust are set forth in a letter of the Land Director of the Office of Military Government for Hesse to the Minister President, dated June 28, 1948.

The Office of the United States High Commissioner and the Federal Republic are now ready to execute their agreement with respect to the above-described transfers of custody and responsibility of cultural objects. This will require a transfer of the objects in question by the Land Hesse, together with pertinent records, to the Committee headed by Herrn Staatssekretär a.D. Dr. Sattler, which was designated by the Federal Republic to accept delivery on its behalf. There would appear to be no impediments to a rapid conclusion of this transfer since the representative of the Land Hesse (Professor Dr. Ernst Holzinger) has been informed, as a member of the Federal Committee, of the arrangements made by the Office of the U. S. High Commissioner and the Federal Republic.

The assumption by the Federal Republic of the custody of the cultural objects presently held in trust by the Land Hesse and the time of the transfer of responsibility therefor should be definitely fixed by some more or less formal method of delivery to be worked out between the Federal Republic Committee and the representative of the Land Hesse.

Mr. Georg-August Zinn,  
Minister President of Land Hesse,  
Hessische Staatskanzlei,  
Wiesbaden.

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Further, trusteeship functions and responsibilities of the Land Hesse, with respect to the cultural objects to be transferred, shall terminate as of the time of delivery to the Federal Republic.

Sincerely yours,

J. H. Newman  
Land Commissioner for Hesse

E:OD:FJMiller/ic  
September 10, 1951  
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DEPARTMENT OF STATE  
FOR THE PRESS

AUGUST 16, 1955

NO. 497

The Federal Republic of Germany has established an administrative agency for external restitution in accordance with the provision of Chapter 5 of the Convention for the Settlement of Matters Arising Out of the War and the Occupation, as amended. The address of the Agency is as follows:

Bundesamt fuer aeussere Restitutionen  
63 Luisenstrasse  
Bad Homburg v.d.H., Germany

The Agency will have the responsibility for searching for, recovering and restituting jewelry, silverware, antique furniture and cultural property which was removed from territory occupied by Germany under the circumstances specified in the Convention. The Agency will also receive and render decisions on certain compensation claims with respect to property removed from territory occupied by Germany that was utilized, destroyed or otherwise disposed of after identification in Germany.

Particular attention is called to the provisions of Chapter 5 of the Settlement Convention which place limitations on the time for filing the various types of applications and claims with the Agency.

\* \* \*

State--FD, Wash., D.C.

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Date 7-6-79

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Federal Agency for External Restitution Reports

Bonn Despatch

- No. 1242      December 14, 1955,      First report for period ending November 5, 1955, dated November 8, 1955. "No claims received...for cultural property."
- No. 1811      March 1, 1956      Report dated February 7, 1956. Para.2) Belgian and French Governments submit cultural claims for restitution in kind: Belgian claim for 1,500 items, French claim for several thousand items.
- No. 2571      June 19, 1956      Report dated May 9, 1956. Para.1(f) French Government increased claims for restitution in kind. Denmark, the Netherlands, Austrian and Czech Governments also forwarded claims for restitution in kind. Numbers not given.
- No. 400      September 6, 1956      Report dated August 9, 1956. Collective claims under 1(f) of report of May 8, 1956 in attached tabulation (NOT SENT). Belgian and French claims not included in tabulation.
- No. 879      December 3, 1956      Report ending November 6, 1956. 1) Total claims 78,854. Very few located.  
  
Principal questions of interpretation of Chapter 5 to be decided by Arbitral Commission.
- No. 1469      March 6, 1957      Report ending February 5, 1957. All Italian claims under Article 7 para. 3 submitted to Arbitral Commission.  
  
Routine progress reported.

AM:ARHall:lqf      4/4/57

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BY NARA Date

cc: OPR - Mr. Estes

January 28, 1957

CC: Mr. Rainstein

Mr. Jones

CC: Mr. Margolis

AM: Ardelia R. Hall

External Restitution of "Cultural Property" under the Convention with Germany

External restitution of cultural property recovered in western Germany, under Chapter 5 of the Convention, with Germany, has been assumed by a German agency, the Bundesausschuss für Assure Restitutionsen.

I understand from Art. 2, para. 2 that the German agency only functions until May 7, 1957 when it shall discontinue proceedings. What happens after May 7, 1957 is not known, even to the agency. Whether compensation will be made for cultural property not found is also not determined. The officials of the German agency thought there might be some agreement between the Three Powers and the German Government; they have recommended that a claimant try and get his government to safeguard his interests.

Under Art. 1, para. 5, the agency is required to give information on matters dealt with to the Three Powers on request. The agency is also required to submit quarterly reports. The records shall be preserved "until otherwise agreed." To my knowledge, no information has been requested; no quarterly reports have been received. The disposition of the records is, presumably, to be determined by the Three Powers and Germany.

The following requirements are also made upon the US as one of the Three Powers under Chap. 5, Art. 2. Para. 3 states "Claims filed with... any of the Three Powers... shall be referred by the Power concerned to the German agency". All cultural claims (that could be located) which had been filed with the US were transmitted by Department to Bonn and the German agency in April 1956. They included claims from 18 countries on behalf of 1600 claimants for 302,422 items.

Under Art. 4, para. 4 "The German agency... shall recognize claims for restitution which have been approved by any of the Three Powers. The agency shall also accept as conclusive a certificate by any one of the Three Powers that the property, which was the subject of the claim had not been received by an appropriate agency of that Power for despatch to the claimant -" i.e. that the object had not been in US custody and restituted to the claimant government. Art. 5 reads, "Compensation pursuant to this Article (b) shall be awarded in the amount of the replacement value of the property concerned as of the date of the award." This paragraph would apparently refer to economic property which can be replaced; but there is no indication that cultural property is excluded.

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cc: O&B

The German agency is already requesting that claimants obtain a statement or a certificate. Should not the request come from the German Government? (In most cases, it is possible for the United States to provide such a certificate, from the card files and records in the AM office.)

Under Article 3, paragraphs 1 and 2 provide for claims against the present possessor for restitution to be brought before a German court, with a cut-off date of ten-year bona-fide possession or until May 8, 1956.

The applicability of such a cut-off date for important works of art is unrealistic even fantastic. A Lorenzo di Credi is missing from the Uffizi in Florence, a Raphael is missing from Poland, and hundreds of famous paintings are missing from France. If they appear anywhere in the world they will be recognized as Nazi loot. A third-party purchaser can claim to be the bona-fide possessor. A New York dealer is, now, doing just that with regard to works of art from the Berlin museums. But an American museum could not do so and it would be impossible for it to purchase looted or stolen objects with public funds or to exhibit them. The American public has been well-versed in the widely publicized U. S. policy. No cut-off date for claims or restitution of cultural property has ever been a part of U. S. policy, to my knowledge.

I believe that further consideration should be given to the text of Chapter 5 in its application to cultural property; to how well the chapter meets the particular needs of external restitution for cultural objects; that information should be requested from the German Government as to what the German agency has accomplished; and a final report should be requested.

Proposals might be requested from the French Government, about what it considers desirable to be done to meet the needs of claimant governments after May 7, 1957. The French Government is the one country among the Three Powers that has a stake in cultural restitution and an interest in continuing to recover its looted cultural property (2,361 pages of French claims for 168,405 items were forwarded by the Department to the German agency.)

Cultural restitution is now, to be sure, a European problem to be met by each European country, since the US has no further responsibilities in western Germany. However, the works of art, which were looted are well known and their pre-war ownership established. The World War II vicissitudes become a part of the history of a work of art. (Item by item the art looted by Napoleon is known and its subsequent disposition is recounted.)

We need to live up to our commitments under international law at home, exemplifying the US interpretation of its obligations in the territory under its jurisdiction. And we also have a right to expect that Germany and other European governments, having the same commitments will live up to theirs. One practical reason is to prevent looted art not properly

controlled

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By JWA NARA Date 7-9-74  
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controlled in Europe coming into the US market.

We should make it plain that we expect the German Government to continue restitution of works of art, in accordance with Art. 2, para. 2, "If, after such discontinuance the claimed property is identified, the restitution proceedings may be reopened."

cc: OPR - Mr. Hates  
P/SK - Mr. Simms

AM:ARH:lqf 1/28/57

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AIR POUCH 1594  
FROM: AMEMBASSY BONN  
TO: The Department of State, Washington  
REF: Department's A-623, March 14, 1957

March 22, 1957.

SUBJECT: Restitution of Cultural Properties (Chapter Five, Settlement Convention)

Pursuant to the referenced instruction the Embassy submits the following report:

1. The Federal Agency for External Restitutions (hereinafter called "the Agency") has currently submitted quarterly reports on its activity, as required by paragraph 5 of Article 1 of Chapter Five of the Settlement Convention. As to each report thus received, the Embassy has reported to the Department what it considered the essential points; see Embassy despatches No. 1242, December 14, 1955; No. 1811, March 1, 1956; No. 2571, June 19, 1956; No. 400, September 6, 1956; No. 879, December 3, 1956; No. 1469, March 6, 1957.

2. As far as the restitution of cultural properties is concerned (Articles 1 and 2 of Chapter Five), a summary of the present status of the work of the Agency appears in our despatch 879, December 3, 1956. We are informed that most of the (80,000 applications filed with the Agency under Articles 1 and 2 relate to properties which have never been found in Germany. These cases are, of course, of a type entirely different from those to which the Department's instruction relates and which involve properties stored at the Munich Central Collecting Point.

3. Upon receipt of the referenced instruction, we inquired (in the absence of Mr. Fechner who is at present in Washington) of Dr. Fricke of the Federal Ministry of Finance (which Ministry supervises or directs the work of the Agency) as to the status of restitution claims relating to properties stored at the Munich Central Collecting Point, and also as to the status of those claims globally transferred to the Agency by the Embassy's letter of May 3, 1956 (see Embassy despatch No. 2282, May 11, 1956). Dr. Fricke replied he would promptly obtain a report from the Agency as to the status of these matters and transmit it to us. As soon as this has been received, we shall report further. At the present time, we would like to point out the following only:

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Page 2 of Despatch  
1594 of March 22, 1957.

- 2 -

- a. Dr. Fricke said he felt, as we do, that the provision in the third sentence of paragraph 2 of Article 2 of Chapter Five should have no practical importance in the case of applications for the restitution of property which have been found and taken into custody in Germany.
- b. Dr. Fricke said that, according to his present information, most of the properties in the Munich Collecting Point had not been shown to have been removed from occupied territories by the German Forces or authorities.
- c. Our general impression is that the Agency discharges its functions conscientiously and as expeditiously as the circumstances permit. We doubt that the Agency's staff includes cultural officers; Mr. Fechner should be able to give the Department information on this point.
- d. As we understand the referenced Instruction, the Department is concerned with the question whether and in which manner certain records or data in its possession should be made available to the Agency. While we are unfamiliar with the type of records and data here involved and thus cannot make any suggestion at this time, we would like to draw attention to the procedure adopted with regard to a perhaps somewhat similar matter. In processing applications under Article 4 of Chapter Five (compensation for non-cultural property) the Agency frequently finds it necessary to obtain information from the files of the Restitution Control Branch of United States Military Government. To enable the Embassy to provide such information, numerous such files have been returned from the Army Records Center in Kansas City to the Embassy. On the basis of these files, the Embassy provides the necessary information to the Agency. In appropriate cases, the Embassy transmits the file on a loan basis to the Agency upon its undertaking to return it within a stated short period, and such files have always been very promptly returned by the Agency.

*no connection  
MCCP has  
files -*

For the Charge d'Affaires ad interim:

*[Signature]*  
Elin O'Shaughnessy  
Counselor of Embassy

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DEPARTMENT OF STATE  
FOR THE PRESS

SEPTEMBER 16, 1957

NO. 525

(GERMANS EXPAND RESTITUTION CLAIMS COVERAGE)

The American Embassy in Bonn has reported that recent modifications of the German Federal Restitution Law open the way for the filing of certain categories of monetary restitution claims by former Nazi persecutees who have been unable to obtain compensation under previous legislation. The modifications relate to claims arising from unlawful taking by certain German entities of tangible or intangible property which at the time of the taking was "identifiable" within the meaning of restitution legislation but which cannot be restituted because of loss, damage, or deterioration. The modifications are believed of particular interest to individuals who sustained losses due to confiscation of identifiable property outside West Germany which property was subsequently sent into West Germany or Berlin. The development is considered of significance in cases where special levies or discriminatory taxes were collected through seizure of such property. Knowledge of the final location of the property is not required.

Claims must be filed with German authorities not later than April 1, 1958.

The Department of State has available an information sheet giving further details of the German legislation which will be furnished upon request.

\* \* \*

State--FD, Wash., D.C.

*Bundeswiederverstättungsgesetz = BRÜG*

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*Bund's records & statements Office Copy  
of etc.*

MONETARY RESTITUTION CLAIMS AGAINST GERMANY INCLUDING  
CLAIMS ARISING FROM CONFISCATION OF PROPERTY OUTSIDE WEST GERMANY  
WHICH WAS SENT INTO WEST GERMANY OR BERLIN

(NOTE: The following information is furnished as a matter of general interest to residents of the United States who may have restitution claims against Germany. The Department of State is not in a position to furnish additional information regarding the matter nor to be of assistance in preparation or filing of individual claims. Such claims are a private matter between the claimant and the government of the Federal Republic and must be the responsibility of the claimant. Accordingly, any inquiries regarding specific cases should be addressed to the competent German registration agencies listed on page 2 ).

*(and inside too)*

The Department of State has received information regarding recent modifications of restitution procedures of the Federal Republic of Germany which will permit former Nazi persecutees to claim compensation for identifiable property which was confiscated outside West Germany. The claimant must be able to establish that the confiscated property was sent into West Germany or Berlin after seizure. The Federal Restitution Law which came into force on July 19, 1957 provides that in such cases the place of receipt and disposition by the Reich may be considered the place of confiscation. Knowledge of the final location of the property is not required.

The legislation is considered of significance in cases where special levies and discriminatory taxes were collected through seizure of identifiable property. The question is open whether bank accounts so seized will be considered transferrable, identifiable property.

The German legislation applies to monetary restitution claims against one of the following entities:

- (1) the German Reich;
- (2) the German Reich Railroads;
- (3) the Reich Post;
- (4) the former Land Prussia;
- (5) the enterprise "Reichsautobahnen";
- (6) the NSDAP, its formations, its affiliated associations and the other dissolved NS-organizations;
- (7) the Reich Association of Jews in Germany;
- (8) the Emigration Fund of Bohemia and Moravia.

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at the place where the persecutee had his domicile or residence immediately prior to his emigration or to the dispatch of the household effects, unless there is known a place in West Germany to which the property was removed. As to properties which are known to have been removed to West Germany or East Berlin although the exact place is unknown, the registration and restitution agency in West Berlin has jurisdiction.

If a monetary restitution claim has been filed prior to April 1, 1958 with a compensation agency established under the Federal Compensation Law, no further registration is required. The claimant should, however, request the compensation agency to refer the matter to the appropriate restitution agency.

An error in selecting one of the four above-listed registration agencies is harmless. The agency which receives the claim will forward it to the proper agency where appropriate.

Payments.

(1) Computation of Amounts

- a. Claims for the payment of a Reichsmark amount are converted at the rate of 10:1 into DM. 25 percent will be added as accrued interest to the DM-amount arrived at.
- b. Claims for damages are assessed on the basis of the replacement value within West Germany as of April 1, 1956. In the case of tangible property the condition of the property at the time of confiscation will be taken into account in assessing its replacement value. 25 percent will be added as accrued interest to the amount so assessed, or 10 percent in the case of shares of stock and other participations.
- c. Claims for damages arising from the confiscation of a Reichsmark credit balance which, in the absence of a confiscation, would have been subject to conversion pursuant to Article 13, paragraph 3 of the Currency Conversion Law (i.e., bank accounts and RM payments made for the transportation of lift vans) shall be converted at the same ratio at which they would have been converted in the absence of a confiscation (normally 6.5 DM for 100 RM). 25 percent will be added as accrued interest.

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In the case of bank accounts or other Reichsmark credit balances to which the provisions of the Old Savings Accounts Law apply, the benefits provided in that Law shall be added to the amount to be paid. The benefits of the Old Savings Accounts Law in effect raise the conversion rate to a ratio of 2 for 10.

(2) Satisfaction of Claims

a. Ceiling: Claims are to be satisfied by the Federal Republic up to the maximum total amount of DM 1.5 billion. This ceiling does not apply to the new lift-  
van claims.

b. Time and method: Payment is to be made in accordance with the following schedule:

Until April 1, 1959 - up to DM 20,000 of the total amount awarded to each claimant.

Until April 1, 1960 - up to 50 percent of the total amount awarded to each claimant.

Until April 1, 1962 - the unpaid balance of the total amount awarded; whether this balance will be paid in full or be proportionately reduced will depend on whether the amount of DM 1.5 billion is sufficient to allow full satisfaction.

Until December 31, 1962 - 4 percent annual interest since April 1, 1956, provided that this can be paid within the ceiling of DM 1.5 billion.

Procedure and Remedies. All monetary restitution claims, the newly created claims as well as the old claims, are processed in accordance with the provisions of the applicable Military Government restitution legislation. Judgments rendered or amicable settlements made prior to the effective date of the Law are to be adjusted in harmony with the provisions of the Law. After a claim has been established under the procedures of the restitution legislation, its amount is assessed by the Oberfinanzdirektion.

*of ERA  
claimant rec 80.85%  
of NW D  
claimant rec 100%*

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The decision of the Oberfinanzdirektion may be appealed to the Restitution Chamber. The period for appeal is three months from the date of service of the decision, or six months if the claimant resides abroad.

Advance Payments and Hardship Clause. Advance payments may be made up to an amount of 50 percent of the total award if the first DM 20,000 appear insufficient to alleviate the distress of the claimant.

Natural persons may, upon application, be granted certain payments in hardship cases. Such application must be filed on or before April 1, 1958 with the Oberfinanzdirektion at Frankfurt/Main (Bundesvermogens- und Bauabteilung).

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