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RG 56

Authority AND 978025

Entry INTL STATS DIV.

By TJ NARA Date 9/24/99

File GERMANY
Gold, Currency, Loot

Box 80

*German, Gold - Currency
& Loot Recoveries - Problems
of Disposition*

MEMORANDUM FOR COL. BERNSTEIN

Nazi Loot from "within" Germany

Considerable thought has been given to the problem of Nazi loot from the occupied countries or "booty" in Germany belonging to the United Nations. That, we have said, is subject to "control".

However, there is an associated problem; namely, what to do about property within Germany, public or private, "looted" by individual Nazis and their organizations. 1067 provides for collecting available information and preserving such property. It further states that a suitable commission will ultimately deal with this problem. (Appendix "C", Economic Directive, Para 5).

You may want to find out in Washington the latest thought on this problem.

JHF/nv

J.H. Fisher
Lt. Commander, USCGR

*See - Gold, Currency, Loot - for
- This being of Disposition
(but attached?)*

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Authority AND 978025
By T NARA Date 9/24/99

Entry INT'L STATS DIV.
File GERMANY
Gold, Currency, Loan
Box 80

Treasury Department
Division of Monetary Research

Date 11/6/1941

To: Mr. Wellman

From: Mr. Delaney

*The gold market
which you may want to examine
through and keep a distribution*

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Authority AND 978025
By TJ NARA Date 9/24/99Entry INTL STAS DIV.
File GERMANY
Gold, Currency, Loot
Box 80SECRETSUPREME HEADQUARTERS
ALLIED EXPEDITIONARY FORCE
Mission (France)

APO 757

23 November 1944

MEMO TO: Lt. Comm. Fisher

SUBJECT: Military Government Law 52

FROM: Lt. L. A. Jennings

1. The following excerpts are taken from General Intelligence Bulletin No. 26, Hq. ECAD, dated 13 Nov. 1944:

a. "A report from a usually reliable source, deemed to be probably true, indicates—plans are now proceeding for the total structural reorganization of the Nazi Party—all Nazi agents in foreign countries will be transferred—the money required has already been paid to the accounts of the agents in neutral countries, especially Switzerland, Portugal, Sweden, Turkey and Argentina."

b. "The following account of sequestration of funds by Party leaders comes from a fairly reliable source and is deemed possibly true—high Nazi officials are withdrawing their deposits from all branches of the Suddentsche Diskontobank of Baden and Wurtemberg. Freiburg bankers are transferring large sums, in money and securities, to the Swedish Consulate at Karlsruhe. The Deutsche Verkehrs Kreditbank, whose main office is located at Karlsruhe, is sending large sums of money to the exchange office at a Basle railroad station. At the beginning of September, Goering's representatives, traveling on diplomatic passports, arrived in Switzerland where they made large deposits in the Davos branch of the Bundner Kantonbank and in the Waadtlander Kantonbank in Lausanne."

2. In view of the information set forth above it is believed that consideration might properly be given to incorporating the following addition into Military Government Law No. 52, or into some other applicable order or instruction:

a. The Embassies, Legations and Consulates representing neutral nations in Germany will execute MGAF Form 2 with respect to all assets held by them which are not owned (1) by the respective Government concerned (2) by bona-fide nationals of the respective Government concerned.

b. The Embassies, Legations and Consulates representing neutral nations in Germany will prepare a separate report detailing all physical transfers of cash, securities,

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By D HARA Date 9/24/99Entry INTL STATS DIV.
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gold, bullion or other valuables from Germany to any other country during the period from Jan. 1, 1943 to date, unless such transfers were strictly for the account of the respective government concerned, or a bona-fide national thereof and were made directly to that government or bona-fide national.

c. All financial institutions in Germany will prepare reports setting forth full details on all transfers, either book or physical, of cash, securities, gold, bullion or other valuables from Germany to any other country during the period from Jan. 1, 1943 to date, except that for all accounts of persons and entities described in General Order No. 1, the report will cover a period from Jan. 1, 1942 to date.

3. It is suggested that the following requirement be incorporated either in Military Government Law No. 52 or Instructions to Financial Institutions:

All financial institutions will set up and maintain separate GENERAL LEDGER accounts of liabilities and/or assets which are blocked under the provisions of this law.

This requirement will be relatively simple for Financial Institutions to effect, and will be a valuable aid to supervision in all phases of Military Government.

/s/ L. A. Jennings

L. A. JENNINGS,
1st Lieut., FD.

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Authority AND 978025Entry INTL STATS DIV.By D HARA Date 9/24/99File GERMANYBox Gold, Currency, Cont
80MEMORANDUM FOR COL. BERNSTEINSUBJECT: Tracing German Assets abroad.

Problem of tracing German Foreign Exchange Assets abroad is problem that SHAEF is interested in since we have taken the first definite steps by requiring Form MGA XI.

There have been discussions in London between MEW, Foreign Office and Treasury Representatives but nothing definite has been worked out as yet.

Bogdan is preparing a paper on this.

SHAEF is preparing a memo outlining legal power of SHAEF to compel neutral embassies to submit reports on transactions effected on behalf of Germans, etc.

In Washington you may wish to get an idea of what agencies will carry the ball and advise such agencies of the nature of our MGA-1 and other Foreign Exchange plans.

J. H. FISHER,
Lt. Comd., U.S.C.G.R.,
Financial Branch, G-5.

JHF/EC.

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Entry

INTL STAFF DIV.By D HARA Date 9/24/99

File

GERMANY
Gold, Currency, Lost

Box

80

SHAFF/G-5/Leg/

24 December 1944.

Application of Military Government Financial Laws and Controls to Diplomatic Personnel in Occupied Territory.

1. Legal Finan-
Br. cial 24
G-5 Br. Dec
G-5 1944

1. This is in answer to the question put by Lt. Bogdan whether or not the diplomatic agents of neutral powers found in Germany would be subject to the laws of Military Government, such as Laws 52 and 53 on property

and foreign exchange control and Law 161 on frontier control. The practical aspect of the question is whether or not dispatches sent or carried by such envoys would be exempt from search and control by reason of their diplomatic status and whether or not government owned foreign exchange assets in the custody of such embassies and consulates and the foreign exchange assets of their personnel would have to be registered and delivered in accord with Law 53.

2. There is no well defined limitation upon the power of an occupant with regard to the diplomatic personnel of neutral powers found in occupied territory. The US "Rules of Land Warfare" provide that, while neutral nationals are subject to all of the regulations of the occupying power, "diplomatic agents of neutral sovereigns and governments must be treated with all courtesy and be permitted such freedom of action as is possible to allow, with due regard to the necessities of war" (FM 27-10), para 398). The British "Manual of Military Law" accords with this general statement referring, however, to special instructions which will be issued to govern the treatment of neutral diplomatic personnel (MML, paras 502, 503). The texts on the subject concur in the duty of a belligerent to treat neutral diplomatic envoys with propriety, through any extraterritorial rights that they may enjoy as diplomatic agents are subject to such limitations as may be responsive to military necessity. Neutral diplomats must at least be given the right to quit occupied territory unmolested (MML, para 503). However, under precedents established in previous occupations, this does not seem to assure to them exemptions from search or from other impositions as the occupant may deem required for his security.

3. Policies of the Combined Chiefs of Staff with respect to the examination of enemy diplomatic and consular property and communications are set forth in FACS 91 and FACS 117. These cables

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By TJ HAPA Date 9/24/99Entry INTL STAFF DIV.
File GERMANY
Gold, Currency, Loot
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SHAFF/G-5/Leg/

24 December 1944.

Application of Mil Gov Financial Laws and Controls to
Diplomatic Personnel in Occupied Territory

3. (cont).

1 Legal Fin. 24
G-5 G-5 Dec
1944

indicate that the existing policy of the Combined Chiefs of Staff is to confine the examination of diplomatic or consular premises, even in the case of enemy governments very narrowly and to require substantial preliminary proof that the premises or communications are used either for clandestine warlike operations or in support of them and that examination of diplomatic or consular records are essential to the security of military forces and operation.

4. The power of the Allied Forces to exert control and require registry of the property of neutral governments in the possession of neutral diplomatic agencies seems also to be recognized as a procedure properly available to an occupying power, in so far as it is necessary to assure the success of its military operations. Seizure of such property has been sanctioned, provided that compensation is given for it. This power to seize neutral governmental property would, it seems certain, include the power to block and control it temporarily. Blocking and control of neutral governmental property, moreover, is directed by item (iii) of sub para c of para 7 of the Financial Supplement to CCS Directive 551/2.

5. While the CCS has set the policy of the occupying forces with respect to the blocking and control of neutral governmental property, it has indicated that subsequent instructions are to be issued on the treatment of diplomatic and consular officials of the neutral countries (CCS General Political Directive for Germany Prior to Defeat or Surrender, para 8).

6. In view of the foregoing, it is the conclusion of this Branch that -

- a The various directions of Laws 52, 53 and 161 relating to the registry and surrender of foreign exchange assets and the control of exports may be applied to the property of the neutral governments and of neutral diplomatic agents;

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Authority AND 978025
By TJ HARA Date 9/24/99Entry INTL STATS DIV.
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Gold, Currency, Loot
Box 80

SHAFF/G-5/Leg/

24 December 1944.

Application of Military Government Financial Laws and Controls to Diplomatic Personnel in Occupied Territory.

1. Legal Fin 24
G-5 G-5 Dec
1944

6. (cont)

(b) While the examination of neutral dispatches or the search of neutral embassies and diplomatic personnel is authorized under International law, where military security urgently demands it, in view of the severe restrictions imposed upon examination of enemy diplomatic premises and dispatches in the CCS cable grams mentioned above, no such investigation should be attempted without a prior approval of G-2 and of the Political Advisers and a state of facts as compelling as that called for in the CCS Cables above mentioned. The Guidance of the CCS, promised in para 8 of the General Directive for Germany mentioned above should be sought with respect to this policy question.

Copy to:-

Political Adviser (US)
" " (BR)
G-2 Division

HAYDEN N. SMITH
Lt. Col. GSC
D/Chief, Legal Branch.

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By T HARA Date 9/24/99Entry INT'L STATS DIV.
File GERMANY
Gold, Currency, Loot
Box 80

SECRET

TOP

PRIORITY

CRYPTOGRAPHIC SECURITY DOES NOT APPLY. HANDLE AS SECRET CORRESPONDENCE PER PARAS 44g and 53a, AR 380-5.

From : US Group Control Council, Berlin, Germany

TO : War Department

Nr : CC 17671

27 September 1945

CC 17671 to WARCAD for State and Treasury from US Group CC signed Clay.

1. Reichsbank records and officials indicate:

A. That some of the gold looted by the Germans during the war was after resmelting sent to the Bank for International Settlements.

B. That the principal of some of the old German debts to various European countries was at a time when such countries were occupied by the Germans, repaid through the Bank for International Settlements in gold or foreign exchange which was subsequently looted or confiscated from such countries by the Germans.

2. In order to obtain the information necessary for formulating policy concerning the disposition of gold found in Germany, it is important that an immediate demand be made that the Bank for International Settlements permit a team of experts representing United States Group Control Council and Treasury to inspect all gold owned by or in the possession of the Bank for International Settlements and all relevant books, files and records.

3. Sources cited above also show:

A. That the German Reichsbank maintained an important depot of gold in the Swiss National Bank throughout the war.

B. That 2/3rds of all German gold shipments abroad during the war were destined for the Swiss National Bank.

C. That more than half of the confiscated Belgian gold was after resmelting sent to the Swiss National Bank.

4. It is therefore important that the above team of experts also be permitted to examine all gold owned by or in possession of the Swiss National Bank and relevant books, files and records.

End.

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Authority AND 978025Entry INTL STAS DIV.By D HARA Date 9/24/99File GERMANYBox Gold, Currency, loot

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Germany - Sealed Property

August 28, 1945

*Secretary Finson**Mrs. White*

Appended, together with its attachments, is a copy of a memorandum which we sent to you on August 20 relative to the gold which was captured by the U.S. Army in Germany. You will recall that Mr. Byrnes advised you the other day that he had inadvertently sent out the telegram proposed by the State Department governing the handling of such gold, notwithstanding that he had before him a Treasury draft along quite different lines. The State Department telegram, by its terms, purported to give the views of the President and yourself, as well as those of Mr. Byrnes and Mr. Crowley.

Joe DuBois has been talking with Mr. Pauley about this and reports that Pauley is quite concerned over the way in which State has handled this matter. DuBois states that Pauley will probably speak to you soon on this matter.

8/29/45 - Sent to Mr. Kelly for the Secretary

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Authority AWD978025
By TJ HARA Date 9/24/99Entry INTL STATS DIV.
File GERMANY
Gold, Currency, Loot
Box 80*German Looted Property*COPY

August 20, 1945

To: Secretary Vinson

From: Mr. White

Re: Gold Captured by U.S. Army in Germany

(1) During the invasion of Germany, the U.S. Armed Forces captured about \$200 million worth of gold in the Harbers mine and other miscellaneous lots of gold hidden in other places in Germany. This gold is at present in the custody of the U.S. Armed Forces at Frankfurt.

(2) Investigations are under way to ascertain the origin of the gold in question as well as to ascertain the disposition by Germany of other gold looted by it during the war from occupied countries. Investigations to date indicate that certain portions of the gold, probably the larger portion of it, can be identified as to origin, but investigations are still incomplete and the full facts are not known.

(3) Various nations which lost gold to the Germans and particularly France have been quite vocal in demanding that the gold in question be distributed to them.

(4) The Treasury, while not having arrived at a definite position on the ultimate disposition of the gold, has been taking the position that nothing should be done with respect to the gold which would prejudice any one of a number of alternative ultimate solutions. Among these possible alternative solutions are the following: (a) treating the gold as war booty to the U.S. Armed Forces; (b) treating the gold as part of the pool of German external assets for reparation purposes; (c) treating the gold, to the extent it is identifiable, as restitutable property for return to former owners.

(5) Ambassador Pauley has transmitted to the President and other interested agencies, including the Treasury, a cable containing the following recommendation as to the disposition of the gold:

That if the gold or any part of it is returned to the liberated countries either on the basis of restitution of identifiable property or under a "cease pot" formula, arrangements should be made that any claims of the United States against such countries whether for payment of obligations on account of the importation of food and supplies to such countries or otherwise, should constitute a lien against the gold. Pauley's point

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Authority WD 978025

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INT'L STATS DIV.By T HARA Date 9/24/99

File

GERMANY
Gold, Currency, Loan

Box

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really seems to be that we should not surrender this bargaining weapon when there are outstanding so many claims and potential claims against the countries claiming the gold and other issues with respect to which we desire their concurrence.

(6) State Department proposes to tell Pauley that this Government should not hold on to the gold for any purpose, bargaining or otherwise, but instead should treat the gold as constituting a pot from which payment will immediately be made on a pro rata basis to all Allied countries which had gold stolen from them by the Germans.

(7) It is our view that a determination cannot and should not be made now concerning the final disposition of this gold and that the U.S. forces should continue to maintain custody of the gold at least until the facts are fully known and until we have some more clear indication of how the countries involved intend to respond to the claims we have against them and the extent of cooperation they intend to give us in various matters, such as the question of the mobilization and disposition of all German external assets.

(8) The present status of the reply to be given to Pauley's suggestion is as follows:

(a) The State Department draft reply has been submitted to Secretary Byrnes for approval;

(b) We understand that the White House draft of the reply is also on Byrnes' desk, but we have been unable to ascertain the nature of such reply;

(c) We have given State Department representatives a copy of the attached draft reply with the distinct understanding that it has not been cleared with you. The State Department representatives indicated that they might also show our draft reply to Secretary Byrnes.

Appended is also a copy of the cable received from Pauley and the proposed draft reply of the State Department submitted to us for comment.

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Authority ND 978025
By TJ NARA Date 9/24/99Entry INTL STATS DIV.
File GERMANY
Gold, Currency, Lost
Box 80COPY

6/17/45

Proposed Reply to Ambassador Pauley's Cable Concerning Disposition of German Gold.

Careful consideration has been given to your suggestion concerning the disposition of the gold captured in Germany by the U.S. Armed Forces. It is the view of this Government that final decision concerning the disposition of this gold should be postponed until the Control Council has agreed to appropriate measures for the mobilization and disposition of German-owned external assets in accordance with the decisions taken at Potsdam on this subject. In the meantime, the U.S. Armed Forces should maintain custody of the German gold.

It is our view that postponement of the ultimate decision concerning the gold and the continuance of American custody will have the advantages which your suggestion seeks to achieve without arousing the inevitable controversy with our Allies which the assertion of a lien would produce.

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Authority AND 978025
By J HAPA Date 9/24/99Entry INTL STATS DIV.
File GERMANY
Gold, Currency, Loan
Box 80

8/17/45

Proposed Reply to Ambassador Forley's Cable Concerning Disposition of German Gold.

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It is our view that postponement of the ultimate decision concerning the gold and the continuance of American custody will have the advantages which your suggestion seeks to achieve without arousing the inevitable controversy with our Allies which the assertion of a lien would produce.

JBFriedman:file
8/17/45

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Authority WD 978025

Entry

INTL STATS DIV.By D HARA Date 9/24/99

File

GERMANY
Gold, Currency, Loot

Box

80

Paraphrase of Incoming Telegram

To: The Secretary of State
 From: Ambassador Pauley - Moscow
 Dated: August 13, 1945
 Number: 2861

H. Jacques Rueff, the French representative, has not accepted the Berlin Protocol officially, and has reservations concerning French participation in Moscow conferences. He states that the French must know what they are to receive in the way of reparations before they can agree to the Potsdam decisions. I have made it clear that this matter is still one of negotiation among the British, French, American and other representatives of nations claiming a share of reparations from the three western zones of occupation, and that France like the U.K. and U.S. would enter the negotiations without previous commitments or understandings. H. Rueff is also very desirous to have definitions of restitution agreed by us. Since my view has always been that the scope of restitution should be settled in the Commission on Reparations, I have put forward a definition as a basis for negotiation. The draft introduced was that last prepared by Mr. Clayton, modified to take account of the points raised by DEPT's telegram 1770 of August 8. The representative of the USSR was unwilling to discuss the subject, and stated that while he would refer the matter to his government, in his view restitution could be better handled by discussions outside the Reparations Commission. H. Jacques Rueff dislikes the U.S. view of restitution, mainly because it fails to include securities and gold. I replied that this question could be settled later by France, the U.K. and other countries concerned,

outside

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By T NARA Date 9/24/99RG 56Entry INTL STATS DIV.File GERMANY
Gold, Reparations, LendBox 80

outside of Moscow, since the USSR had waived its rights to gold. It is my strong recommendation to the Secretary of State that the U. S. not restore gold and securities until final agreements have been reached regarding reparations, and until a foreign trade plan has been reached which will permit the U.S. to receive payment for imports into Germany such as are now being diverted from Army stocks for shipment to French and British zones to expedite the production of coal. I fear that unless we are careful, the U.S. will again find itself in the position it reached after the last war, when it financed reparations deliveries to other nations. Please inform me whether arrangements have been concluded for paying for the coal now exported from Germany and for the coal and food which is being delivered to Eastern Europe from the U.S.

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Authority ND 978025
By D HARA Date 9/24/99

Entry INT'L STATS DIV.
File GERMANY
Gold, Currency, Loot
Box 80

Germ: Looted Property

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USPOLAD

at Berlin City. In these declarations, which were sponsored by

PERSONAL FOR PAULEY FROM THE SECRETARY

I have consulted the President, the Secretary of the Treasury and

Mr. Crowley of FEA in regard to the recommendation contained in your telegram of August 5 (from Berlin via War) that the United States retain a lien on gold looted by Germany from occupied countries in Europe until past and prospective claims of the United States against such countries are settled. I have also noted that your telegram of August 13 (No. 3891 from Moscow) renews this recommendation on looted gold and includes a recommendation for imposing similar conditions on the restitution of looted securities.

It is the view of the President, my view, and that of Judge Vinson and Mr. Crowley that this government cannot adopt your recommendations.

The considerations on which this view is based are as follows:

- (a) The United States has no moral or legal basis for laying claim to or attaching this or any other gold belonging to foreign countries in settlement of past or prospective debts;
- (b) The United States is bound by its adherences, given without reservation, to the United Nations' declaration with respect to Axis acts of dispossession of January 6, 1943; the gold declaration of February 22, 1944; Bretton Woods resolution VI; and resolution six of the Conference on Problems of War and Peace held

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Authority AWD978025
By D HARA Date 9/24/99

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at Mexico City. In these declarations, which were sponsored by the United States and to which the United States invited the signatures of other nations, the United States is solemnly pledged to support the restitution of looted property;

(c) An attempt by the United States to lay claim to gold belonging to countries with which it maintains friendly relations would seriously prejudice those relations. Particularly is this the case since the United States now owns the greater share of the world stock of monetary gold.

The position of the United States, which you should express in your dealings with your colleagues on the Allied Commission on Reparations, is that gold captured by US forces, as well as gold captured by other Allied forces, should in principle be restored to the countries from which it was looted without reservation, condition, or encumbrance. This Government recognizes, however, that German disposition of some looted gold, and the impossibility of identifying the origin of other gold, require for the sake of equity a modification of the simple principle of restitution of identifiable looted objects to the jurisdiction from which they were removed by Germany. The necessity for such modification and the content of paragraph 10 of the Reparations section of the Berlin Protocol have resulted in the advocacy by the United States of the policy of pooling all gold found in Germany and Austria by Allied troops (British, American, French and Soviet) into a common pot. This gold would then be divided among countries which can establish the fact of

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Gold, Currency, Loot
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German looting of gold from their jurisdiction, other than USSR, in proportion to their established losses.

This Government is similarly committed to a policy of restitution of securities looted by Germany from occupied countries of Europe, without reservation, condition or encumbrance. To the extent that the jurisdiction from which some securities have been removed cannot be established, an equitable principle of distribution must be devised among the UK, USSR, US and France to achieve rough justice in dividing these securities among the countries from which they were looted.

This Government is anxious that steps should be taken at the earliest possible date to restore gold and securities, as well as other types of property, to the countries from which they were removed by Germany. I would appreciate learning from you whether you consider it likely that negotiations with your colleagues on the Allied Commission on Reparations are likely to lead to early agreement on principles and procedure. If so, you are authorized to propose to your colleagues a formulation of the gold-pot policy and of the principle of restitution of securities described above.

The Department is considering certain aspects of the gold-pot policy on which agreement would have to be reached: (1) the scope of the treasure to be included in the pot, eg. whether SS accumulations of precious

metals from concentration camps, monetary silver, etc. should be lumped with monetary gold; (2) the eligibility of Austria, Italy and the satellites as claimants on the gold pot, and whether their treatment should

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Authority AND978025
By D MAPA Date 9/24/99RG 56Entry INT'L STATS DIV.File GERMANY
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be identical with that of liberated countries; (3) how looted gold which Germany illegally sold during the course of the war should be recovered and whether recoveries of such gold should be added to the pot. If you consider that the Reparations Commission can usefully attempt to deal with this problem, the Department will communicate its views on these points to you.

If, however, you do not believe that the Reparations Commission will be able to dispose of the question of restitution of gold and securities please advise me directly so that the Department can undertake to have these matters settled either in ACC, in other negotiations with the occupying powers, or by unilateral settlement for the US zone of occupation.

Sent to USPOLAD, BERLIN as _____, repeated to London for Clayton as _____, repeated to Paris as _____.

CODE ROOM: Please repeat to London for Clayton and to Paris.

FN:CPKindleberger:ST 8/15/45 RS OFD AC WE
ECR A-D S

Cleared with Treasury _____

Cleared with FEA _____

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Authority AND 978025Entry INTL STATS DIV.By D HARA Date 9/24/99File GERMANYBox Gold, Reparations, Lost
80

Paraphrase of Incoming Telegram

To: The Secretary of State
 From: Ambassador Pauley - Moscow
 Dated: August 13, 1945
 Number: 2381

M. Jacques Rueff, the French representative, has not accepted the Berlin Protocol officially, and has reservations concerning French participation in Moscow conferences. He states that the French must know what they are to receive in the way of reparations before they can agree to the Potsdam decisions. I have made it clear that this matter is still one of negotiation among the British, French, American and other representatives of nations claiming a share of reparations from the three western zones of occupation, and that France like the U.K. and U.S. would enter the negotiations without previous commitments or understandings. M. Rueff is also very desirous to have definitions of restitution agreed by us. Since my view has always been that the scope of restitution should be settled in the Commission on Reparations, I have put forward a definition as a basis for negotiation. The draft introduced was that last prepared by Mr. Clayton, modified to take account of the points raised by DEPT's telegram 1770 of August 3. The representative of the USSR was unwilling to discuss the subject, and stated that while he would refer the matter to his government, in his view restitution would be better handled by discussions outside the Reparations Commission. M. Jacques Rueff dislikes the U.S. view of restitution, mainly because it fails to include securities and gold. I replied that this question could be settled later by France, the U.K. and other countries concerned,

outside

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By T. HARA Date 9/24/99RG 56Entry INT'L STATS DIV.File GERMANY
Gold, Currency, LoanBox 80

outside of Moscow, since the USSR had waived its rights to gold. It is my strong recommendation to the Secretary of State that the U. S. not restore gold and securities until final agreements have been reached regarding reparations, and until a foreign trade plan has been reached which will permit the U.S. to receive payment for imports into Germany such as are now being diverted from Army stocks for shipment to French and British zones to expedite the production of coal. I fear that unless we are careful, the U.S. will again find itself in the position it reached after the last war, when it financed reparations deliveries to other nations. Please inform me whether arrangements have been concluded for paying for the coal now exported from Germany and for the coal and food which is being delivered to Western Europe from the U.S.

AB 260
 Recs. of the Executive Office
 The Control Office: Historical Division
 Directives + Regulations, 1945

RESTRICTED

Box 268

HEADQUARTERS 6TH ARMY GROUP
 G-5 SECTION
 APO 23, U.S. ARMY

"Admin. of MG in
 Germany: Finance" file

HP/JC/hs
 5 April 1945

FI/121

G-5 FINANCIAL INSTRUCTIONS)

566

NUMBER

8)

MILITARY GOVERNMENT - GERMANYFOREIGN EXCHANGE ASSETS OF DISPLACED PERSONS

1. Reference is made to paragraph 338 of the Handbook for Military Government in Germany, December 1944 and to Chapter III - paragraph (I) pp 22-23 of the Financial and Property Control Technical Manual, January 1945.

2. Notwithstanding Military Government Law No. 53 and any instructions heretofore issued thereunder or contained in above mentioned references, all United Nations displaced persons uncovered in Germany, including Russian citizens and stateless persons authorized to leave Germany, will be treated as follows:

a. They will not be searched or their assets seized by Allied Forces nor will they be required to deposit or declare any of their own property including foreign exchange assets, except for the declaration of currency required as part of the displaced persons centre processing (Registration Card DP 2) - see displaced persons registration instructions CA/D5.

b. Displaced persons Liaison Officers should, if possible, screen their respective displaced persons within Germany to discover whether they are attempting to act as carriers of foreign exchange assets not belonging wholly to them. In these cases Military Forces will detain the carrier and prevent export of such assets from Germany.

c. Upon arrival in their country of destination, Displaced Persons will receive instructions from local authorities regarding the exchange or deposit of their foreign exchange assets.

d. Military Forces and personnel will not exchange any currency for displaced persons.

e. With respect to property wholly owned by United Nations displaced persons, the provisions of Military Government Law No. 53 are waived insofar as that Law requires the deposit of foreign exchange assets, the execution and filing of declarations and report forms or establishes prohibitions on the removal of their own property with them out of Germany. However if such persons voluntarily comply with Military Government Law No. 53 while they are in Germany, such compliance should be permitted to stand.

- 1 -

RESTRICTED

306151

R E S T R I C T E D

G-5 Financial Instructions No. 8 (Cont'd).
Hq. 6th Army Group, dtd. 5 April 1945.

3. Nothing herein shall be construed to alter such security measures as the Armed Forces consider desirable.

Henry Parkman Jr.

HENRY PARKMAN JR.
Colonel, GSC
AC of S, G-5

DISTRIBUTION:

"A"

- plus 5 - SHAEF, G-5 Financial Branch
- 2 - SHAEF, G-5, for MAAA
- 2 - SHAEF, G-5, for AMFA
- 3 - 12th Army Group, G-5
- 2 - 21st Army Group, G-5
- 20 - AC of S, G-5, Seventh Army
- 1 - ea. F & PC Officer

DECLASSIFIED
Authority **NND 775042**
By **JR** NARA Date **8/2/94**

RG 260
Entry Special File
Box 607

1055

CARRIER SHEET - MUST REMAIN WITH ATTACHED PAPERS - USE ENTIRE WIDTH OF SHEET - NUMBER ITEMS CONSECUTIVELY - DRAW LINE UNDER EACH ITEM

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

APO 742

FILE NO **AG 602.3**

SUBJECT **External Restitution**

Secret

NO	TO	FROM	DATE
1	Chief of STAFF	Director, Prop Div	27 7 48

(Has this been coordinated with all concerned?)

NOTE FOR RECORD

1. Cable WX-81435, which is a draft of a new restitution policy, provides against restituting to the Soviet Union or Soviet satellites where there is a conflicting claim by a non-national or refugee national of the claimant government.
2. Although there is no specific statement on the point, the implication is that restitution to such non-national or refugee nationals of the claimant government may be made.
3. The attached cable to Washington requests clarification on the point. It is desired that this cable be cleared with General Clay before dispatch, as he may wish to make this decision himself.

*In case
Recom
OK*

M

Tel: 43 773
Rm 2036 Econ

Phillips Hawkins
PHILLIPS HAWKINS
Director

In Clay - Recon approval Red Feb 27/8/55

(V)

*Mr Hawkins -
Attention invited to
note of In Clay above.*

*531
534
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35/1 29 1045 gub

Secret

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jk B

DECLASSIFIED
 Authority NND 775119
 By JW NARA Date 9-10

RG 260
 Entry REPARATIONS - RESTITUTION
 File MISC. RESTITUTION
 Box 27

SECRET
 OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

AG CABLES



OUTGOING MESSAGE



RECD 270915Z Nov 48

S E C R E T

P R I O R I T Y

TO : DEPT OF THE ARMY FOR CAD
 FROM : CINCEUR SIGNED CLAY
 REF NO : CC-6884

Subject is restitution from Berlin. Reurad WX-88362, which sets forth the basic restitution policy governing restitution both to the East and West, provides that restitution shall be made to the Soviet satellite countries, except under specific well prescribed circumstances.

There are a large number of restitutable items located in Berlin. Some of these items would normally be restitutable to the East and some to the West. At the present time we are unable to retribute anything from Berlin to the West because of the Soviet blockade. Certain of the Eastern satellite countries, and notably Yugoslavia, have requested restitution of items from Berlin and have precluded any refusal because of transportation technical difficulties, by offering to provide their own transportation. If the policy laid down in urad WX-88362 were strictly followed there would be no reason for not making delivery of these restitutable items from Berlin to Yugoslavia.

With your concurrence, we propose to tell the Yugoslavians and other Soviet satellite countries that it is the US policy to avoid discrimination wherever possible and that we are unwilling to retribute to one country from Berlin until it is possible to retribute to all countries, that we do not believe that one country should be entitled to receive restitutable items from Berlin merely because it is able to make an arrangement with the Soviet Union which other countries are not in a position to make, that accordingly we regret that we will be unable to make any restitution deliveries from Berlin until the lifting of the blockade makes it possible to treat all countries alike.

CC-6884

Copy No. 8

Exempt from paraphrase. Handle in compliance with AR 380-5.

SECRET

DECLASSIFIED
Authority NND 775119
By JW NARA Date 9-10

RG 260
Entry REPARATIONS & RESTITUTION Agency
File MISC. RESTITUTION
Box 27

S E C R E T
-2-

REF NO : CC-6884

WX-88362 is AGC in 12995

ORIGINATOR : PROP DIV

AUTH: PHILLIPS HAWKINS

INFORMATION : C/S
CINCEUR
ECON ADV

CC-6884

27 Nov 48

WH/ds

AG 602.3

S E C R E T

306155

DECLASSIFIED
 Authority NND 775119
 By JW NARA Date 9-10

RG 260
 Entry REPARATIONS RESTITUTION
 File RESTITUTION - Berlin
 Box 27

SECRET

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

AG CABLES



OUTGOING MESSAGE



RECD 270915Z Nov 48

S E C R E T

P R I O R I T Y

TO : DEPT OF THE ARMY FOR CAD
 FROM : CINCEUR SIGNED CLAY
 REF NO : CC-6884

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CC-6884

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Exempt from paraphrase. Handle in compliance with AR 380-5.

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Authority NND 775119
By JW NARA Date 9-10

RG 260
Entry REPARATIONS - B Agency
File RESTRICTION - Below
Box 27

S E C R E T
-2-

REF NO : CC-6884

WX-88362 is AGC in 12995

ORIGINATOR : PROP DIV

AUTH: PHILLIPS HAWKINS

INFORMATION : C/S
CINCEUR
ECON ADV

CC-6884

27 Nov 48

WH/is

AG 602.3

S E C R E T

306157

DECLASSIFIED

Authority UND785007
By TJ NARA Date 10/20/99

RG 319
BOX 88

Asst Chief of
Staff G-2
Intell

File "TO
Austria:
Outgoing"
II

WAR DEPARTMENT
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OUTGOING CLASSIFIED MESSAGE CENTER COPY

SECRET

CAD Operations Div., WDGS
OPD 311.23 CAD 71259 Maj
McEwan

20 September 1945

Commanding General
US Forces, Austria
Salzburg, Austria

Number: WAR 67398

Signed WARCOS.

Formulation of definitive United States restitution policy for negotiations with our Allies for application in United States Zone now under way Washington. Meanwhile following policy approved for prompt and full application your zone during present interim period:

1. Program for restitution of identifiable looted property should be undertaken but restitution should be confined for present to Allied countries and all dealings should be with official representatives of such countries not private claimants. State Dept inviting following govts to prepare lists of claimed items and quantities to facilitate identification of such property in United States Zone: France Belgium Luxembourg Netherlands Norway Denmark Poland USSR Czechoslovakia Greece Yugoslavia.

2. After each list has been examined by United States Zone Commander the several countries should be permitted to send small missions into United States Zone for identification of these items and to arrange for their return.

3. Restitution of looted property should not be delayed on ground that return of such property would give rise to import requirements. As matter of United States policy use of looted property to reduce financing burden on occupying powers cannot be justified to claimant countries.

4. System of receipts and records should be maintained. Receipts should not impose any contingent liability for

CN-OUT-67398

(Sep 45)

CROSS REFERENCE

SECRET FROM	TO:	PLACE	DATE
	68325	Austria	19-27
PV. 7827		Austria	10-17/45
		COPY NO.	

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165 SEP 21 1945

306158

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Authority WAD 785007
By TJ NARA Date 10/20/99

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SECRET

Number: WAR 67398

20 September 1945 Page 2

payment on country to which property is returned but should leave open question whether returned property will be incorporated within German reparation accounts. Not necessary to investigate question of payment by Germany for property taken from occupied countries since United States together with other United Nations is on record as refusing to recognize acquisition of such property by Germany no matter how acquisition was effected.

5. Above instructions do not for present apply to gold, silver and currencies with respect to which you are not authorized to state any policy of this govt but do apply to art and cultural objects regarding which restitution is already underway in Germany.

End.

ORIGINATOR : CAD

INFORMATION: OPD, G-2 (State), Mr McCloy, C of S

CM-OUT-67398

(Sep 45) DTG 211458Z vh

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22

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Authority **UND785007**
By **TJ** NAPA Date **10/20/99**

RG 319
Asst Chief of Staff G-2
Box 87 (Intell)

File "TO Australia
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SECRET

CRYPTOGRAPHIC SECURITY DOES NOT APPLY. HANDLE AS SECRET
CORRESPONDENCE PER PARAS 44g and 53e, AR 380-5.

FROM	TO	PLACE	DATE
8449			13-6-45
81732		Germany	12-10-45
11754		Germany	12-13-45

Joint Chiefs of Staff 77500
Col C R Peck

29 November 1945

U. S. Forces of Occupation Austria Vienna Austria

7984
107 176
CO-7492
Berlin 1-19-46
Number: WANK 85965 1-21-46
Berlin 12/26/46

FROM	TO	PLACE	DATE
9553		Germany	12-1-46
98923		Austria	3-1-46
		the Joint	1-9
81812		Germany	3/22
		Central Am.	9-13

Book message to Clark and McNarney for
Chiefs of Staff.

1. This directive, received from the State, War and Navy Departments, is issued to you as Commander in Chief, U. S. Zone of Occupation, Austria (Germany) and U. S. Member of the Allied Council, Austria (Germany).

You will seek to obtain agreement in the Control Council to the application in the other zones of occupation of the policies laid down in this directive. If, in your judgment, it appears impossible to obtain quadripartite agreement, you will explore the possibilities of a tripartite agreement applicable to the three western zones and make appropriate recommendations to the Joint Chiefs of Staff.

You will proceed with the application of this directive in your own zone even prior to agreement, provided, however, that restitution of property defined in Paragraphs 2 C and 2 D will be effected only when the return of such property is certified by the appropriate representative of the claimant country to be urgently required for the rehabilitation and reconstruction of his country. The restitution shall not be delayed on the ground that items subject to restitution are needed to meet the military or civilian requirements in any zone of occupation provided that in the case of transportation equipment restitution may be so phased as not to reduce available transportation below that required for military deployment and for purposes of the occupation, in-

CM-OUT-85965 (Nov 45)

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8 DEC 1 1945
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Authority UND 785007
By TJ NARA Date 10/20/99

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Number: WARK 85965 Page 2 29 November 1945

cluding the removal of industrial plant and equipment for
reparation.

Items Subject to Restitution.

2. Without prejudice to the formulation of a definitive re-
stitution program, the following categories of property shall,
as an interim measure, be subject to restitution in accordance
with the provisions of this directive:

A. All currencies of the United Nations occupied by
Germany;

B. Works of art and cultural works of either religious,
artistic, documentary, scholastic or historic value
including, as well as recognized works of art, such
objects as rare musical instruments, books and
manuscripts, scientific documents of an historic or
cultural nature and all objects usually found in
museums, collections, libraries, and historic ar-
chives, identified as having been looted or acquired
in any way through commercial transactions or other-
wise by Germans from United Nation countries during
German occupation;

C. Heavy and power-driven industrial and agricultural
machinery and equipment, rolling stock, locomotives,
barges and other transportation equipment (other
than sea-going vessels) and communication and power
equipment identified as having been looted or ac-
quired in any way by Germans from United Nations
during German occupation;

D. Other goods, valuables (excluding gold, securities,
and foreign currencies other than those mentioned
in Paragraph 2 A), materials, equipment, livestock
and other property found in storage or otherwise
in bulk form and identified as having been looted
or acquired in any way by Germans from United

CROSS REFERENCE

FROM	TO:	PLACE	DATE
cc 1069	9003	Germany	12-21-45
cc 3144		Germany	1-1-45
		Germany	5-25-46

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(Nov 45)

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Authority

WWD 785007

By

TS

NARA Date

10/20/99

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Number: WARR 85965 Page 3 29 November 1945

Nations during German occupation;

- E. In the case of property mentioned in C and D above which was produced during the period of occupation, restitution shall be made only if the claimant government submits adequate proof that the property in question was acquired by Germany through an act of force.

Procedures For Restitution

3. Your government will transmit to you from the governments of the USSR, France, Belgium, Luxembourg, Netherlands, Norway, Denmark, Poland, Czechoslovakia, Yugoslavia and Greece lists of property claimed to have been taken from their countries during the period of German invasion or occupation. Such lists will include wherever possible all relevant information which will aid in the identification and location of such property.

4. After examination of these lists you will indicate to your government which of these countries should be invited to send missions into your zone for the purpose of (A) substantiating claims for the restitution of property mentioned in paragraphs 2 A and D, (B) receiving information regarding the location of property which has been the subject of restitution claims by their government (C) identifying and receiving any such property to be restored or distributed in accordance with the provisions of this directive. You will recommend appropriate time and the size of the mission. After approval, details can be arranged by the respective governments direct with you as commander in chief of the United States Zone. You will furnish such missions facilities necessary to the proper discharge of their functions in your zone.

5. You will take steps to deliver all paper currency of United Nation countries invaded or occupied by Germany, now in your zone, to the government of the country of issue

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(Nov 45)

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Authority WWD785007
By TJ NARA Date 10/20/99

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Number: WARX 85965 Page 4 29 November 1945

without the necessity of proof that it was looted or otherwise acquired from that country during the period of German invasion or occupation.

6. You will take steps in your zone to uncover and secure possession of property covered by paragraphs 2 B, 2 C and 2 D, mentioned in lists submitted by claimant governments, and to restore such property to the government of the country from which it was taken.

General Provisions

7. You will require the claimant governments to give receipts for items received by them in accordance with the provisions of the directive. These receipts shall contain a brief description of the item received and its condition, and a waiver of any further claim as reparation or otherwise based upon the removal of the item concerned by the Germans or the exaction of funds used by the Germans to pay for it.

8. You will keep a complete record of items returned or distributed in accordance with the provisions of this directive; and you will submit to the Control Council and your government monthly reports on the progress of the restitution program.

9. The cost of administering this program of restitution shall be counted as part of the costs of occupation.

10. Any property subject to restitution uncovered in Austria and subsequently removed to Germany shall be regarded as uncovered in Germany.

11. After final determination of the amount and character of reparations removals, to be made by 2 February 1946, there should be no restitution on any items of equipment of key importance to plants retained in Germany as essential to minimum peacetime economy.

End

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Number: VARX 85965

Page 5

29 November 1945

ORIGINATOR: JC/S

INFORMATION: Adm Leahy, CG AAF, OPD, G-2, CAD, Adm King,
Mr. Lovett, C of S

CM-OUT-85965

(Nov 45)

DTG: 300014Z

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 File MISC. RESTITUTION
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CONFIDENTIAL
 OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)



AG CABLES

OUTGOING MESSAGE



RECD: 031038Z May 49

C O N F I D E N T I A L
R O U T I N E

3 MAY 1949

TO : DEPT OF ARMY FOR CSUSA
 INFO : EUCOM
 FROM : OMGUS SGD HAYS
 REF NO : CC-8481

ECON ADV.	ACT.	INF.
EXEC		<input checked="" type="checkbox"/>
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IND		<input checked="" type="checkbox"/>
F. & A.		
COMM.		
TRANSP.		

Reurais WX-84505 Feb and WX-87600 Apr and ourad FMPC 484 Mar. Subj is meritorious claims and termination of restitution.

As stated in FMPC 484, we are much concerned over State Departments suggestion that definition of meritorious claims be broadened and our thinking in this matter has been in the exact opposite direction. As previously stated in our FMPC 484, it had been our intention to continue with the present rigid definition of meritorious claims for a very limited period of time after which we would announce that no more non cultural claims would be received. To expand definition of meritorious claims as recommended by State would put us back in business to the extent that it would be necessary for us to reconstruct both German and Mil Govt Restitution Agencies which were largely disbanded as of 31 Dec 1948 and which have subsequently been further reduced with the diminishing workload resulting from small number of new claims received.

In para 2 of WX-84505 your statement fully supports our contention that it would be impossible to continue the restitution program until every looted item has been restored and that the closing of US Mil Govt Program does not affect possible rights of future claims under future treaty with Germany.

As to Italian claims, we have as requested reviewed the claims filed prior to the deadline of 30 Apr 1948, and it is our opinion that these claims were satisfactorily processed, that no other action should be taken with respect to these claims and that

CC-8481

Copy No.

Exempt from paragraph 1, Article 18, GDS, in compliance with AR 380-5.

DECLASSIFIED
 Authority NND 775119
 By JW NARA Date 9-10

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 Box 27

S E C R E T
 -2-

REF NO: CC-8481

no further benefits would result to the claimant nations by the reprocessing of these claims. As to claims submitted as being of a meritorious nature and filed subsequent to 30 Apr 1948, we have again reconsidered these claims and we must point out that we consider such claims should have been filed prior to 30 Apr 48, that the claims are definitely not of a meritorious nature, that substantially all of them are for items for which no declaration were filed by the Germans and for which we have no info as to their location or existence, and that for these reasons have been rejected.

For your info, we rejected on 11 Apr 49 some 267 Italian claims which were submitted as meritorious claims for reasons stated above and the Italian Consulate was informed of our action.

We must emphasize that at no time during the restitution program have we undertaken the task of locating properties where we do not have specific info as to their location and existence nor do we agree that an exception should be made with respect to the investigation of these claims. To accept such claims at this time would create a flood of requests for similar treatment from other nations and would in effect be starting a witch hunt for which personnel are not available.

In view of the above comments and the fact that all missions have operated under a single policy in the US Zone, we recommend and strongly urge that the present definition of meritorious claims remain unchanged, that no exception be made in respect to the Italian claims, that termination date suggested by State be advanced to 30 June 49, and that the rights of claimant nations to indemnity against unsatisfied claims be considered a subject for possible consideration within the framework of the future German Peace Treaty.

WX-87600 1s AGC IN 29601
 WX-84505 1s AGC IN 25207
 FMPC-484 1s AGC IN 25826

COORDINATED WITH: CINCEUR

ORIGINATOR : PROP DIV

AUTH: O R MCJUNKINS

INFO : C/S
 POL AFF
 ECON ADV
 INTELL
 D/I CINC

CC-8481 3 May 49 GEH/jsb AG-602.3

C O N F I D E N T I A L

RG 260
Entry August 1957
File MISC. RESTITUTION
Box 24

DECLASSIFIED
Authority WND 15 119
By TJ NARA Date 9/24/99

1057

SUMMARY OF THE RESTITUTION PROGRAM
IN THE US OCCUPIED ZONE OF GERMANY

SECTION 1 - Policy

ORIGIN

External restitution as carried out in the US Zone of Germany had its basis in the European Advisory Committee discussions in London on 5 January 1943, when delegates from 18 governments, including the United States, United Kingdom, U.S.S.R., and the French National Committee, issued a declaration that they

"reserve all their rights to declare invalid any transfers of, or dealing with, property rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the governments with which they are at war or which belong or have belonged to persons, including juridical persons, resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected."

US
DIRECTIVE

The mechanism of restitution was set in motion for the US forces of occupation in Germany by Directive No. 1067 dated 10 May 1945 from the Joint Chiefs of Staff, which provided

"You will carry out in your Zone such programs of reparations and restitution as are embodied in Allied agreements and you will seek agreement in the Control Council on any policies and measures which it may be necessary to apply throughout Germany to ensure the execution of such programs."

INITIAL
INTERIM
POLICY

On 24 September 1945 a directive was issued setting forth an interim restitution policy for the US Zone to the effect that restitution be made of certain categories of property, wherever found in the US Zone, if identifiable as having been removed from formerly German-occupied territory. In implementation of this interim policy, the governments of France, Belgium, U.S.S.R., Luxembourg, the Netherlands, Norway, Poland, Denmark, Czechoslovakia, Greece and Yugoslavia were invited in October 1945 to prepare consolidated lists of removed property, to submit claims and to send a small mission into the Zone for the purpose of acting in the name of their governments in presenting claims, identifying property located, and receiving such property when delivered. Clearly identified properties, both cultural and non-cultural were restituted with as little formality as possible, and very considerable quantities of valuable and important objects were returned before the final quadripartite agreement on the definition of restitution and its implementing were passed in March and April of 1946. At that time the procedure under the interim agreement was continued and integrated with the formal quadripartite procedures.

RG 260
 Entry PROPERTY
 File MISC. RESTITUTION
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 Authority NNDT 15 119
 By: TJ NARA Date 9 24 99

QUADRIPARTITE
 POLICY
 DECISIONS

Late in 1945, the Directorate of Reparations, Deliveries and Restitution discussed and finalized a quadripartite definition of restitution which was adopted by the Control Council on 21 January 1946 and was followed shortly thereafter by an official quadripartite interpretation (COML/P (46) 3 Revise and CORC/P (46) 143). Also a uniform procedure for the filing, processing and handling of claims was agreed upon. Although application and interpretation of these basic documents varied in the four Zones of occupied Germany and, as far as the US Zone is concerned, were modified and amended by later Washington directives, these pronouncements by the Allied Control Authority continued to form the primary basis of all restitution activities.

Quadripartite agreement as reached in CORC/P (46) 143 provided that

"No nation shall be eligible for restitution unless its territory was occupied in the whole or part by the German armed forces or the forces of their allies and unless it is a united nation, or shall have been specified by the Allied Control Council."

In order to allow restitution to Austria and ex-enemy nations which in the last stages of the war, after they concluded armistices with the Allied powers, had been subject to German spoliation, the US delegate introduced in CORC on 26 June 1946 a paper proposing restricted restitution from Germany to Austria, Finland, Hungary, Italy, and Roumania. No agreement was ever reached on this paper, and restitution to these nations was started and proceeded on a unilateral basis in the US Zone pursuant to instructions received from Washington in March 1946. In the case of Hungary, Italy, and Roumania these instructions were eventually supplemented by the restitution provisions contained in the Peace Treaties with these nations which were signed on 10 February 1947 in Paris and went into effect in September 1947. Finland, apparently deciding that there was no restitutable Finnish property in Germany did not participate in the restitution program.

Each of the original Control Groups provided a Division to handle Reparations and Restitution, as one of the Directorates under the Allied Control Council. Restitution functions were placed in the Economic Division of OMGUS and the resultant organization was known as the Restitution Branch. On 1 March 1948, the Restitution Branch was transferred to the newly established Property Division, and in June 1948 it was combined with the Reparations Branch of the Property Division to be known thereafter as the "Reparations and Restitution Branch".

As adopted by the Control Council, the definition of the term "Restitution" provided as follows:

"The question of restitution of property removed by the Germans from Allied countries must be examined, in all cases, in light of the Declaration of January 5th, 1943.

US POLICY
 ON PARTICIPAT-
 ING NATIONS

OMGUS
 ORGANIZATION

306168

RG 260
 Entry PROPERTY
 File MISC. RESTITUTION
 Box 24

DECLASSIFIED
 Authority WND 15 119
 By TJ NARA Date 9/24/99

"Restitution will be limited, in the first instance, to identifiable goods which existed at the time of occupation of the country concerned and which have been taken by the enemy by force from the territory of the country.

"Also falling under measures of restitution are identifiable goods produced during the period of occupation and which have been obtained by force.

"All other property removed by the enemy is eligible for restitution to the extent consistent with reparations. However, the United Nations retain the right to receive from Germany compensation for this other property removed as reparations". (See Appendix "A" to COME/P(46) 3 Revise).

Paragraph 2 of the above definition was further interpreted by Appendix B to CORC/P(46)143. This interpretation provided that in case of removal by force the right to recovery is an absolute one. "All other property removed by the enemy" was to include all property which was removed in any other way, which implied that restitution of property may be claimed whatever may have been the means or the reasons of dispossession. However, property removed in such manner should not entail an "absolute right" to restitution which may be granted only within the limits consistent with reparations.

German Minimum Economy. The generality of the definition of the term "Restitution" and its official interpretation led not only to differences in implementation in the four Zones of occupation but also to pronounced disagreements with the claimant nations. For two years, the most seriously disputed question was the provision that property not removed by force should be eligible for restitution only "to the extent consistent with reparations".

With respect to the German Minimum Economy policy, the following rule was adopted by US Military Government Authorities:

1. The definition of property subject to restitution authorizes restitution of identifiable goods taken by force and specifically provides also that all other property removed by the enemy is eligible for restitution to the extent consistent with reparations. The basic principle underlying reparations is that property not needed for the minimum German economy will be removed as reparations.
2. Accordingly restitution will not be made of articles removed otherwise than by force where such articles are necessary for the minimum German economy. To the extent consistent with the latter, compensation in kind is permissible.

DEFINITION
 OF THE TERM
 "RESTITUTION"

RESTITUTION
 OF PROPERTIES
 REMOVED
 WITHOUT FORCE

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Eventually in June 1948, pursuant to a Washington directive, the German minimum economy provision, although maintained in the form of a guiding overall policy, was replaced by the concept of what became known as the "Normal Commercial Transaction", which was to the effect that property removed in the course of a transaction essentially commercial in character was not to be considered subject to restitution. What constituted a transaction essentially commercial in character was further elaborated and developed on an individual-case basis from which certain general principles were eventually evolved.

In order to overcome, to a certain extent, the hampering effect of the German minimum economy doctrine, a procedure was devised in February 1948 under which the German holder could offer the claimant nation other property to be shipped in lieu of the property determined to be restitutable but claimed to be essential to the German economy. Agreements between the German holder and the foreign restitution mission concerning such replacement or compensation were subject to the approval of the German Economic Ministry and the OMC of the Land concerned.

Even after the normal commercial transaction doctrine replaced the German minimum economy policy, such compensation agreements proved useful and of importance to soften in critical cases the impact on and possible disruption of key industrial plant especially when engaged in the export program.

A special problem was presented by rolling stock and inland waterway transport craft which were being claimed for restitution. On the one hand, Military Government needed every last box car and barge or tug boat to get the German economy started again, to provide for the needs of the occupation army and the German population, and to ship Ruhr coal on which the other western European countries depended. On the other hand, the picture was in this instance not entirely one-sided since transport facilities, by their nature, are destined to travel across borders and much German rolling stock and IWT craft had remained in formerly occupied countries. In view of these considerations the Deputy Military Governor directed on 6 November 1946 that restitution should not be made of inland waterway transport equipment except to the extent of any net balance in the US Zone of foreign tonnage in favor of the claimant nation concerned in excess of the amount of German tonnage held in the claimant country. It was further provided that in addition to such net tonnage balance, foreign craft held in the US Zone might be exchanged on an appropriate tonnage basis for German craft held in the country concerned. This became known as the One-For-One Exchange Rule. The same principle was decreed for rolling stock.

An exception was made in the case of foreign IWT craft of the Danube which Washington directed in November 1946 to be restituted without restrictions in consideration of the fact that these craft had not come to Germany in the normal flow of transportation but had been removed by the Germans from southwestern Europe upon the retreat of their armies. Restitution of these craft included some 200 Hungarian, 160 Yugoslav, 30 Czechoslovakian, 10 Greek, and 20 Roumanian craft.

NEGOTIATIONS
 OF
 SUBSTITUTIONS

IWT CRAFT
 AND ROLLING
 STOCK

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RESTITUTION
 TO BALTIC
 COUNTRIES

Concerning Soviet claims for property removed from the territory of the formerly sovereign states of Latvia, Lithuania and Estonia, the Soviet Military Administration in Karlshorst had been advised as far back as March 1947 that the United States do not recognize the incorporation of these countries into the Soviet Union and that, although Soviet claims would be accepted for such property, the US Government reserved its decisions to the ultimate disposition thereof. The few claims, falling into this category, which were submitted by the Soviet Union have been dropped.

CAPTURED
 ENEMY
 MATERIAL

Under international law, title to material captured by the US Army from enemy forces had passed to the US Government, and the attitude was taken that any restitution was an act of grace in the discretion of the US Government and not a right on the part of the nation claiming restitution. In the case of French motor vehicles, if such vehicles had subsequently been sold to Germans by authority of the US Military establishment or Military Government, the title of the purchaser was not disturbed.

RESTITUTION
 TO
 HUNGARY

Restitution to Hungary deserves special mention. The figure of total restitution made to Hungary is evaluated at RM 126,000,000 (1938 value). The major part of such restitutions consists of Hungarian gold in the amount of some \$ 35,000,000. Restitution to Hungary came to a standstill in April 1948 when the Hungarian Restitution Mission was ordered out of the US Zone. Since then only Hungarian Hospital equipment has been returned to Hungary. This was not considered restitution in the strict sense of the word but was done in compliance with the terms of the Geneva Convention. There still remains in the US Zone property allegedly of Hungarian origin of an estimated value of RM 12,000,000, disposition of which is awaiting decision on higher level.

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SECTION II - Operations

Investigations. Shortly after the inception of the restitution program, it became the established policy of the US Military Government not to allow independent searches and investigations by the foreign restitution missions but to conduct such activities on the basis of information supplied by the missions with American personnel assisted, where necessary, by German investigators under US supervision, or to arrange specific field trips for so-called Inter-Allied teams under the supervision of an American restitution officer.

Declarations Program. In line with this policy, the Minister Presidents of the Laender were ordered in April 1946 to promulgate a German law requiring all persons to declare any property in their possession which was removed from formerly German occupied territory as well as any other such property in the hands of third persons of which they had any knowledge. Slightly in excess of 25,000, such declarations were filed and placed at the disposal of the missions for scrutiny as a possible basis for claims.

Depositories of Cultural Materials. For protection from air-raid and other accidents of war, the German authorities placed works of art and cultural objects in mines, castles, churches, barns and many other types of isolated locations. These locations have been called repositories and some 1,500 of them, containing upwards of 14 million works of art and cultural objects, were discovered in the US Zone of Germany. The major problem connected with these repositories was first, making sure that they did not contain material subject to restitution, and second, the physical clearance of repositories so that the normal cultural life in Germany might be resumed. This problem was met in several ways. Usually records were complete enough so that repositories, which probably contained material subject to restitution, could be readily identified, and in most every case such repositories were promptly evacuated to a Central Collecting Point where the material could be screened under proper conditions by qualified personnel. A second step, when it was reasonably certain, after inspection, that the repositories did not contain material subject to restitution, was to place it under special custody receipt in the care of either a local custodian or a responsible officer of German Museums administration. These custody receipts retained adequate control by MG over the moving and disposition of materials in the repositories. Eventually, permission was given, and the authorities were urged to evacuate such repositories to the permanent locations of the institutions to which they belonged. In many cases, a further problem immediately arose in this connection, since such permanent locations were frequently bombed out buildings. Until spring of 1948 many of the repositories remained under nominal US control because of the difficulty of inspection and evacuation partially due to lack of transportation. An intensive campaign to complete evacuation and inspection through the summer of 1948, reduced the number of repositories requiring further action from 328 on 15 July to zero on 30 September 1948.

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German Owned Cultural Property. Upon first taking over control of Germany, strict laws were promulgated preventing the transfer of works of art (Law 52). As the German Land Governments were constituted, and the museum administrations and Denkmalpflege were set up again, this control became less important for publicly owned property. Therefore, as early as February 1947, orders were issued to return property believed to be purely of German ownership, to public institutions and private owners. Two difficulties were encountered in the implementation of this order. The first was the need to thoroughly screen all such collections for possible material subject to restitution. This took time. The second was the poor condition of most available buildings for the storage of such material. A third difficulty arose, specifically in connection with the vastly important material belonging to the former Prussian State, which it was believed should not be returned to Berlin.

All these difficulties were solved by persuasion and by making certain specific German agencies of Land Governments responsible as bailee or trustee for the German people. All such material that could be identified was delivered to German custody before the first of October 1948.

Cultural Material from Austrian Repositories. A considerable amount of works of art and cultural objects, particularly those destined for the so-called Hitler-Linz-Museum, were discovered in repositories within Austria. Since the US Forces in Austria did not have adequate Collecting Points to handle such material, it was evacuated to the Munich Central Collecting Point, and that which was subject to restitution was returned in the name of USFA by the Munich Central Collecting Point; those items clearly of German origin were retained in Germany, and the balance, including unidentified items, returned to USFA for disposition.

Jewish Cultural Property. As the screening of cultural materials progressed in the collecting points a considerable volume of archival materials and religious objects of Jewish origin, both German and non-German, were segregated. Part of this property is claimed under Law 59, and will be retained under custody by Property Control pending disposition through established court procedures. Jewish cultural properties, unidentified as to source, have been turned over to JCR., Inc. (Jewish Cultural Reconstruction) by an agreement executed in February 1949. JCR is acting as trustee in distributing these properties for the preservation of the cultural heritage of the Jewish people.

As early as 27 August 1946, the US Delegate introduced at the 42nd meeting of the RDP Directorate a paper proposing cutoff dates for the filing and processing of restitution claims (see DRER/P(46)101). No agreement could be reached and eventually, at the 140th meeting of the CORC, on 16 October 1947, the US Delegate announced on behalf of his government, that

PROBLEMS
 OF MFA&A

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TERMINATION
 DATES FOR THE
 FILING OF CLAIMS

"In our opinion the establishment of a termination date for the filing of restitution claims is most reasonable, as claimant nations, by 30 April 1948, will have had three years from the cessation of hostilities in which to file their claims. In addition, the establishment of a termination date at this time does not give Germany favored treatment, in view of the fact that treaties with Italy, Roumania, Bulgaria, and Hungary provide that all claims for restitution from those nations are to be presented in a six-month period, commencing with the effective date of their respective peace treaties.

"The US Delegation, therefore, wishes to announce that the 30th of April 1948 is the termination date for the filing of restitution claims in the US Zone. I wish to stress, however, that this termination date will neither effect the processing of claims already submitted nor the carrying out of searches for looted property.

"Finally, I wish to indicate that the US Zone Commander will consider such meritorious individual restitution claims as may arise after the date of 30 April 1948".

The last date for the filing of claims for cultural properties was later set at 15 September 1948.

PROPERTY
 RESTITUTED

NON-CULTURAL property claimed and restituted included a wide range of articles such as industrial machines, motors and equipment of any description, motor vehicles, motor-cycles, trucks and trailers, streetcars, ferrous and non-ferrous metals, precious and semi-precious metals and stones, rolling stock and IWT craft, textiles, clothing and furs, turpentine, oils and resin, wines and spirits, jewelry and personal effects, pharmaceutical and medical supplies, horses and cattle, furniture and household effects.

The following is a summary by nations of values and main categories of properties restituted. These figures include the valuation of Inland Water Transport craft, but do not include the value of rail wagons returned which are separately estimated at RM 287,000,000.

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<u>Country</u>	<u>Main Categories of Property Restituted</u>	<u>RM Value (1938)</u>
Austria	industrial equipment, oils and resin, motor vehicles	4,228,422
Belgium	radium, industrial equipment, barges, industrial diamonds, non-ferrous metals	11,258,789
Czechos- lovakia	industrial equipment, personal effects and jewelry, motor vehicles	23,773,374
Denmark	industrial equipment	602,944
France	industrial equipment, horses, motor vehicles, wines, personal effects and furniture	58,447,538
Greece	miscellaneous	42,782
Hungary	gold, silver, horses, bridge building equipment, hospital equipment, machinery, motor vehicles	126,285,723
Italy	industrial equipment, non- ferrous metals, streetcars, silver	10,915,674
Luxembourg	industrial equipment personal effects	373,475
Netherlands	diamonds, barges, in- dustrial equipment	42,445,817
Norway	furs, non-ferrous metals, industrial equipment	1,579,700
Poland	industrial equipment, horses	10,909,112
Roumania	barges, motor vehicles	1,066,407
U.S.S.R.	agricultural equipment vehicles, scrap	313,940
Yugoslavia	non-ferrous metals, barges, industrial equipment	15,538,503

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PROPERTY
 RESTITUTED

CULTURAL property claimed and restituted also included a wide range of articles. Initial shipments were made in September 1945, to Belgium, France, and the Netherlands, and later to Austria, Czechoslovakia, Greece, Great Britain, Hungary, Italy, Luxembourg, Norway, Poland, USSR and Yugoslavia. While in 1949 some cultural objects are still being found, the vast majority of such objects, estimated at more than 2,000,000 in number, had been returned to fourteen different nations. Value of cultural properties returned via the Restitution Program is almost impossible to estimate, but was undoubtedly in excess of \$245,000,000, speaking conservatively. Returned objects included such master-pieces as paintings by Titian, Raffael, Peter Brueghel, Rembrandt, Fra Filippo Lippi, Millet, Corot, Rubens, El Greco, Fragonard, and many others, statues by Rodin, Gobelin tapestries, the great Veit Stoss altar piece from Poland, and innumerable famous works of art known throughout the world. Also returned were such objects as antique silver, Persian rugs, carpets, furniture, ceramics, glassware, a bronze fountain, coins, jewelry, engravings, violins, figurines, vases, valuable archives, and rare books of all kinds.

SECTION III - Completion of the Restitution Program

NON-CULTURAL. Pursuant to Washington draft directive of May 1948 stating as its policy the bringing of the entire restitution program to a conclusion as soon as feasible, preparations were made and the necessary steps were taken, in the latter part of June 1948 to terminate the processing of non-cultural claims by 31 December 1948, and on 11 August 1948 an official announcement was made to the chiefs of the foreign Restitution Missions in Karlsruhe that it was intended to complete, with the possible exception of a small number of meritorious claims, both investigations and shipments of restitutable items by 31 December 1948.

Out of a total of 20,598 claims received (each claim comprising from one to as many as thousands of different items) 9,876 claims had been disposed of, either by restitution or rejection, as of 15 June 1948, i.e. during a period of approximately 2 1/2 years. This left a work-load of 10,722 claims not only to be processed but also, as far as found restitutable, to be shipped within a period of six months.

In order to accomplish this task, seven new operation officers were added to the professional staff in Karlsruhe which had been badly depleted by the resignation of five civilians and the recall of three Air Force officers out of a total of 14 professionals, and additional personnel and facilities were placed at the disposal of the Restitution Branches in the Laender.

Between 15 and 30 June 1948 all claims for securities were taken out of the Karlsruhe office to be handled by Reparations and Restitution Branch, OMGUS, Berlin.

This phase of the program was later transferred to the Office of the Finance Adviser, OMGUS, effective 11 March 1949. Claims for rolling stock and IWT craft were transferred to the Transport Group, Office of the Economics Adviser, OMGUS, Berlin. All remaining claims were screened for small value items and such claims were dropped and the foreign restitution missions were informed that these claims would not be processed (individ-

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ual radios, cannibalized automobiles, pieces of furniture and clothing, etc.). By 30 June 1948, the total outstanding claims were thus reduced by 1885, including 194 claims which were dropped during that period for non-location and 60 claims which were satisfied. By 31 December 1948, essentially all of the claims which had been filed prior to 30 April 1948 had been processed, and decisions made as to whether the claimed properties were to be restituted or whether the claim was to be dropped, and shipments of these properties were virtually complete except for deliveries to France and Czechoslovakia. Final deliveries were completed by 1 June 1949.

CULTURAL. On 15 July 1948, slightly over 750 claims were active on the books of MFAAA. By 15 September, which was set as the last date for receiving new claims, other than special meritorious cases, approximately 2,500 more claims were received. With the increased effort to close the restitution phase of Monuments, Fine Arts and Archives, all claims were carefully examined. As a result of this deadline and this examination, approximately half of all the claims were dropped, since they covered material which was either of no cultural value or was for material for which there was no evidence of its existence in the United States Zone of Germany. The latter category included by far the majority. This elimination of claims created some dissatisfaction on the part of claimant nations, but after it was understood that three years had been spent in searching for materials of unknown location, and that the law of diminishing returns was operating strongly on the value or importance of such materials, most of them were content. All claimant nations have felt very strongly that they have recovered only a fraction of material actually lost, that is, looted from their countries, but most of them are now satisfied they have recovered a high percentage of the material actually in existence in the United States Zone of Germany. A few additional claims have been received since November 1948 but those which have come to our attention have been general in nature without any specific information regarding location of the claimed properties.

Subsequent to 30 April 1948 filing of claims for non-cultural properties was not permitted until 1 January 1949. After that date only meritorious claims were accepted for investigation.

Between 1 January 1949 and 30 June 1949 we received a total of 883 meritorious claims from Austria, Belgium, Czechoslovakia, France, Greece, Italy, Luxembourg, Netherlands, Poland and Yugoslavia and Russia. Only 17 of these claims were accepted for processing, the others having been rejected as not being of a meritorious nature. In accordance with the established procedure for the processing of these meritorious claims, the claims accepted were referred to the Land OMC concerned for investigation and appropriate action. Action, including shipping, has been completed on ten of the seventeen claims accepted. No additional claims for non-cultural properties were to be accepted after 30 June 1949, the deadline date established at governmental level. Claims for cultural properties will continue to be received however, where the circumstances justify such action.

MERITORIOUS
 CLAIMS

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Copy to Mr. [unclear] & Miss [unclear]

24 March 1949

A SHORT HISTORY OF EXTERNAL RESTITUTION (NON-BILATERAL)

1. Early History

The first Allied pronouncement of the principle of "Restitution" was made in London on 5 January 1943 when delegates from 18 governments, including the United States, United Kingdom, U.S.S.R., and the French National Committee, issued a declaration announcing that they

"reserve all their rights to declare invalid any transfers of, or dealings with, property rights and interests... situated in the territories which have come under the occupation or control... of the governments with which they are at war... This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or are transactions apparently legal in form, even when they purport to be voluntarily effected."

The mechanism of restitution was set in motion for the U.S. forces of occupation in Germany by Directive No. 1087 dated 10 May 1945 from the Joint Chiefs of Staff, which provided

"You will carry out in your Zone such programs of reparations and restitution as are embodied in Allied agreements and you will seek agreement in which it may be necessary to apply throughout Germany to ensure the execution of such programs."

On 24 September 1945 a further directive was issued setting forth an interim restitution policy for the U.S. Zone to the effect that restitution be made of certain categories of property, wherever found in the U.S. Zone, if identifiable as having been removed from formerly German-occupied territory. In implementation of this interim policy, the governments of France, Belgium, U.S.S.R., Luxembourg, the Netherlands, Norway, Poland, Denmark, Czechoslovakia, Greece, and Yugoslavia were invited in October 1945 to prepare consolidated lists of removed property to submit claims and to send a small mission into the Zone for the purpose of acting in the name of their governments in presenting claims, identifying property located, and receiving such property when delivered.

2. Allied Control Authority

Late in 1945, the Directorate of Reparations, Deliveries and Restitution discussed and elaborated a quadripartite definition of restitution which was adopted by the Control Council on 21 January 1946 and was followed shortly thereafter by an official quadripartite interpretation (CCM/P(46)3 Revised and COMG/P(46)163). Also a uniform procedure for the filing, processing and handling of claims was agreed upon. Although application and interpretation of these basic documents varied in the four Zones

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of occupation and, as far as the U.S. Zone is concerned, were modified and amended by later Washington directives, these pronouncements by the Allied Control Authority continued to form the primary basis of all restitution activities.

3. Additional Nations Eligible for Restitution

Quadripartite agreement as reached in CORC/P(46)143 provided that

"No nation shall be eligible for restitution unless its territory was occupied in the whole or in part by the German armed forces or the forces of their allies and unless it is a united nation, or shall have been specified by the Allied Control Council."

In order to allow restitution to Austria and ex-enemy nations which in the last stages of the war, after they concluded armistices with the Allied powers, had been subject to German spoliation, the U.S. delegate introduced in CORC on 26 June 1946 a paper proposing restricted restitution from Germany to Austria, Finland, Hungary, Italy and Roumania. No agreement was ever reached on this paper, and restitution to these nations was started and proceeded on a unilateral basis in the U.S. Zone pursuant to instructions received from Washington in March 1946. In the case of Hungary, Italy, and Roumania these instructions were eventually supplemented by the restitution provisions contained in the Peace Treaties with these nations which were signed on 10 February 1947 in Paris and went into effect in September 1947. Finland, apparently deciding that there was no restitutable Finnish property in Germany, never participated in the restitution program.

4. Organization

The original European Advisory Committee's agreement regarding an Allied government for Germany provided for a division to handle Reparations, Deliveries and Restitution. This plan was confirmed in principle by the Potsdam Agreement. Each of the four Control Council groups provided a division or department for Reparations, Deliveries and Restitution as one of the proposed directorates under the Council. Shortly thereafter, certain reallocations of responsibilities were made in the U.S. Zone under which the restitution functions were transferred to the Restitution Branch of the Economics Division, which branch also supplied the U.S. delegate to the Reparations, Deliveries and Restitution Directorate. On 1 March 1948, the Restitution Branch was transferred to the newly established Property Division, and in June 1948 it was combined with the Reparations Branch of the Property Division to be known thereafter as "Reparations and Restitution Branch."

While the Restitution Branch had at all times been maintained in Berlin on a policy level with only a small staff, its non-cultural operational functions were concentrated in the Restitution Control Branch which was located first in Heeschst with OMGUS (Rear) and after 1 July 1947 in Karlsruhe. Restitution Control Branch

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REPARATIONS + RESTITUTION Branch

handled and processed all claims, and all foreign restitution missions were attached to its headquarters. Matters of policy and cases involving disputed or complicated problems were referred to Restitution Branch in Berlin. Restitution Control Branch in turn operated in the field of investigations and shipments through the Restitution Branches of the Offices of Military Government in the laender.

On 23 April 1948, the then Restitution Branch, OMGUS, Berlin, was transferred to Karlsruhe in line with the U.S. policy of removing from Berlin all agencies which at that time were less concerned with policy than with liquidating their programs along operational lines. With the merger of the formerly independent Restitution and Reparations Branches, the Berlin contact in what remained of policy matters reverted back to the Chief, Reparations and Restitution Branch, in Berlin.

5. Foreign Restitution Missions

Of the eleven Allied nations which were invited in October 1945 to participate in restitution, Belgium, Czechoslovakia, France, Norway, the Netherlands, Poland, and Yugoslavia maintained missions accredited to the Restitution Control Branch for the entire duration of the restitution program. Denmark sent a mission in July 1948. Greece and Luxembourg did not have separate restitution missions in the Zone but handled restitution matters through their consuls in Frankfurt. The Soviet Union accepted in 1946 the invitation to send a restitution mission but changed its personnel often, and there were frequent intervals at which no Soviet restitution personnel were actually in the Zone. Of the ex-enemy nations, Italy and Roumania maintained accredited restitution missions since invited to do so in 1946. The Hungarian Mission was ordered to leave the U.S. Zone early in April 1948 in consequence of provocative conduct on the part of the Hungarian Repatriation Mission. Austria, not considered an ex-enemy nation but neither an Allied nation, was represented by a mission from December 1946 on. At the height of restitution activities in the summer of 1948, the total number of accredited mission personnel amounted to 102.

6. Definition of the Term "Restitution"

As adopted by the Control Council, the definition of the term "Restitution" provided as follows:

"The question of restitution of property removed by the Germans from Allied countries must be examined, in all cases, in light of the Declaration of January 5th, 1943.

"Restitution will be limited, in the first instance, to identifiable goods which existed at the time of occupation of the country concerned and which have been taken by the enemy by force from the territory of the country.

"Also falling under measures of restitution are identifiable goods produced during the period of occupation and which have been obtained by force.

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REPARATIONS & RESTITUTION

All other property removed by the enemy is eligible for restitution to the extent consistent with reparations. However, the United Nations retain the right to receive from Germany compensation for this other property removed as reparations." (See Appendix "A" to CONL/P(46)3 Revise.)

Paragraph 2 of the above definition was further interpreted by Appendix B to CORC/P(46)143. This interpretation provided that in case of removal by force the right to recovery is an absolute one. "All other property removed by the enemy" was to include all property which was removed in any other way, which implied that restitution of property may be claimed whatever may have been the means or the reasons of dispossession. However, property removed in such manner should not entail an "absolute right" to restitution which may be granted only within the limits consistent with reparations.

7. German Minimum Economy

It is not surprising that the generality of the above definition and its official interpretation led not only to differences in implementation in the four Zones of occupation but also to pronounced disagreements with the claimant nations. For two years, the most seriously disputed question was the provision that property not removed by force should be eligible for restitution only "to the extent consistent with reparations."

In a memorandum of 19 June 1946, the Deputy Military Governor had laid down the following rule:

"1. The definition of property subject to restitution authorizes restitution of identifiable goods taken by force and specifically provides also that all other property removed by the enemy is eligible for restitution to the extent consistent with reparations. The basic principle underlying reparations is that property not needed for the minimum German economy will be removed as reparations.

"2. Accordingly restitution will not be made of articles removed otherwise than by force where such articles are necessary for the minimum German economy. To the extent consistent with the latter, compensation in kind is permissible."

In implementation thereof, a procedure was worked out under which, if certified by the competent division or branch of OMGUS to be essential to the German minimum economy, restitution of capital equipment would be indefinitely suspended, whereas raw materials and consumers' goods would be released to the German economy. It became the tendency of the certifying OMGUS agencies to interpret very broadly this directive and to certify essentiality even in cases of minor or local importance only. The claimant nations on the other hand objected vigorously to the principle of the German minimum economy which they considered neither within the letter nor the spirit of

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the London declaration and the decisions of the Allied Control Authority. In any case, the extensive application of the directive considerably slowed down the restitution program.

Eventually in June 1948, pursuant to a Washington directive, the German minimum economy provision, although maintained in the form of a guiding overall policy, was replaced by the concept of what became known as the "Normal Commercial Transaction," which was to the effect that property removed in the course of a transaction essentially commercial in character was not to be considered subject to restitution. What constituted a transaction essentially commercial in character was further elaborated and developed by Restitution Branch, Karlsruhe, on an individual-case basis from which certain general principles were eventually evolved.

8. Compensation

In order to overcome, to a certain extent, the hampering effects of the German minimum economy doctrine, a procedure was devised in February 1948 under which the German holder could offer the claimant nation other property to be shipped in lieu of the property determined to be restitutable but claimed to be essential to the German economy. Agreements between the German holder and the foreign restitution mission concerning such replacement or compensation were subject to the approval of the German Economics Ministry and the OMO of the Land concerned.

Even after the normal commercial transaction doctrine replaced the German minimum economy policy, such compensation agreements proved useful and of importance to soften in critical cases the impact on and possible disruption of key industrial plants especially when engaged in the export program. By and large, the compensation idea may be called one of the most constructive by-products of the restitution program.

9. Rolling Stock and IWT Craft

A special problem was presented by rolling stock and inland waterway transport craft which were being claimed for restitution. On the one hand, Military Government needed every last box car and barge or tug boat to get the German economy started again, to provide for the needs of the occupation army and the German population, and to ship Ruhr coal on which the other western Europe countries depended. On the other hand, the picture was in this instance not entirely one-sided since transport facilities, by their nature, are destined to travel across borders and much German rolling stock and IWT craft had remained in formerly occupied countries. Inspired by these considerations the Deputy Military Governor directed on 6 November 1946 that restitution should not be made of inland waterway transport equipment except to the extent that there was a net balance in the U.S. Zone of foreign tonnage in favor of the claimant nation concerned in excess of the amount of German tonnage held in the claimant country. It was further provided that in addition to such net tonnage, foreign craft

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held in the U.S. Zone might be exchanged on an appropriate tonnage basis for German craft held in the country concerned, which became known as the One-for-One Exchange Rule. The same principle was decreed for rolling stock.

An exception was made in the case of foreign IWT craft of the Danube which Washington directed in November 1946 to be restituted without restrictions in consideration of the fact that these craft had not come to Germany in the normal flow of transportation but had been removed by the Germans from southeastern Europe upon the retreat of their armies. Restitution of these craft included some 200 Hungarian, 160 Yugoslav, 30 Czechoslovakian, 10 Greek, and 20 Roumanian vessels.

10. Restitution from Reparations Plants

Since the definition of restitution is all-inclusive regardless of where the property claimed is located, it followed that property is subject to restitution even if located in reparations plants provided it can be identified as having been removed from formerly German-occupied territory. Moreover, where such removal had taken place by force, the right to restitution is an absolute one and consequently superior to any reparations claims (see paragraph 6 above).

A difficulty arose in cases where the restitution claimant could not prove removal by force, which difficulty DRDR/P(46)55 tried to resolve. It provided that, where an agreement could not be reached between the restitution claimant and the reparations recipient, a working group appointed by the RDR Directorate should decide whether or not the property in question was indispensable for the operation of the plant. If found dispensable the property would go to the restitution claimant, but if found indispensable, either the Zone Commander should provide adequate compensation or, failing to do so, the RDR Directorate would render a decision.

In practice, this procedure proved unworkable since the reparations recipient, with whom to negotiate, was not known until final allocation, or sub-allocation by IARA, and in the interest of the reparations program it had to be decided that reparations shipments should proceed irrespective of pending restitution claims. When quadripartite cooperation in Berlin came to a halt in April 1948, even the quadripartite machinery for deciding disputes under DRDR/P(46)55 ceased to exist. For all practical purposes, therefore, restitution of property located in reparations plants remained limited to such items as could be shown to have been removed by force.

11. Declarations Program

Shortly after the inception of the restitution program, it became the established policy of the U.S. Military Government not to allow independent searches and investigations by the foreign restitution missions but to conduct such activities, on the basis of information supplied by the missions,

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with American personnel assisted, where necessary, by German investigators under U.S. supervision, or to arrange specific field trips for so-called Inter-Allied teams under the supervision of an American restitution officer.

In line with this policy, the Ministers President of the Laender were ordered in April 1946 to promulgate a German law requiring all persons to declare any property in their possession which was removed from formerly German-occupied territory as well as any other such property in the hands of third persons of which they had any knowledge. Slightly in excess of 25,000 such declarations were filed and placed at the disposal of the missions for scrutiny and as a possible basis for claims. Claims actually based on declarations amounted to about 4,000.

The declarations program cannot be called a real success. It is obvious that, considering that the U.S. Zone has a population of some 18,000,000, only a fraction of the persons obligated to file a declaration did so. It was a recurrent experience that property was found which had not been declared. Attempts to enforce the penal provisions of the Declarations Law proved in most instances unsuccessful for lack of U.S. prosecution personnel as well as because of the fact that the Declarations Law was a German law and German courts therefore had jurisdiction.

12. Restitution to Eastern Nations

Political developments behind the Iron Curtain led in the fall of 1947 to a reconsideration of the policy of restitution to the Soviet Union and countries in the Soviet orbit. Transportation difficulties helped to explain a temporary stop of all shipments to the East in November 1947 while policy changes were under consideration in Washington. Eventually in May 1948, Washington laid down certain general policies to be applied in resuming restitution shipments to the East. Under such policies restitution was not resumed in the case of special-purpose machinery and certain types of products which could possibly be used in and for the war economy of the recipient eastern country. Furthermore, precedence was accorded independent claims by non-nationals and refugee nationals of any claimant eastern nation. This constituted a fundamental departure from the earlier practice that claims could only be submitted by governments.

Concerning Soviet claims for property removed from the territory of the formerly sovereign states of Latvia, Lithuania and Estonia, the Soviet Military Administration in Karlsruhe had been advised as far back as March 1947 that the U.S. do not recognize the incorporation of these countries into the Soviet Union and that, although Soviet claims would be accepted for such property, the U.S. Government reserved its decision as to the ultimate disposition thereof. In the meantime, the few claims falling into this category have been dropped by Restitution Branch.

Differential treatment was given western and eastern nations with respect to material captured by U.S. forces from the German army. Under international law, title to such captured enemy material had passed to the U.S. Gov-

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ernment, and the attitude was taken that any restitution was an act of grace in the discretion of the U.S. Government and not a right on the part of the nation claiming restitution. As a matter of general policy, Military Government waived such title in favor of western nations and proceeded with restitution to them while asserting U.S. title and refusing restitution to eastern nations. In the case of French motor vehicles an exception was made in that, if such vehicles had subsequently been sold to Germans by Military Government, the title of the purchaser would not be disturbed.

13. Restitution to Hungary

Restitution to Hungary deserves special mention. As long as there seemed a possibility to "keep Hungary's window to the West open," Hungary was given a somewhat preferential treatment in the field of restitution. The figure of RM 128,000,000 (1938 value) at which total restitutions to Hungary are evaluated is indicative of this early policy. The major part of such restitutions consists of Hungarian gold in the amount of some \$35,000,000 which technically did not involve restitution since the gold had been evacuated by the Hungarians to Austria and later removed to Germany by the U.S. forces but which nevertheless was incorporated in restitution as a convenient vehicle for its return.

Restitution to Hungary came to a standstill in April 1948 when the Hungarian Restitution Mission was ordered out of the U.S. Zone. Since then only Hungarian Hospital equipment has been returned to Hungary. This was not considered restitution in the strict sense of the word but was done in compliance with the terms of the Geneva Convention. There still remains in the U.S. Zone restitutable Hungarian property of an estimated value of 12,000,000 RM, disposition of which is awaiting decision on higher level.

14. Termination Dates for the Filing of Claims

As early as 27 August 1946, the U.S. Delegate introduced at the 42nd meeting of the RDR Directorate a paper proposing cut-off dates for the filing and processing of restitution claims (see DRDR/P(46)101). No agreement could be reached and eventually, at the 140th meeting of the CORC on 16 October 1947, the U.S. Delegate made the following announcement on behalf of his government:

"The U.S. Delegation has previously cited the fact that the processing of claims for restitution constituted a very heavy demand upon the U.S. staff, and that the U.S. Delegation cannot agree to maintain such a considerable staff for an indeterminate period.

"In our opinion the establishment of a termination date for the filing of restitution claims is most reasonable, as claimant nations, by 30 April 1948, will have had three years from the cessation of hostilities in which to file their claims. In ad-

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dition, the establishment of a termination date at this time does not give Germany favored treatment, in view of the fact that treaties with Italy, Roumania, Bulgaria and Hungary provide that all claims for restitution from these nations are to be presented in a six-month period, commencing with the effective date of their respective peace treaties.

"The U.S. Delegation, therefore, wishes to announce that the 30th of April 1948 is the termination date for the filing of restitution claims in the U.S. Zone. I wish to stress, however, that this termination date will neither affect the processing of claims already submitted nor the carrying out of searches for looted property.

"Finally, I wish to indicate that the U.S. Zone Commanders will consider such meritorious individual restitution claims as may arise after the date of 30 April 1948."

15. Termination of the Restitution Program

Pursuant to Washington draft directive of May 1948 stating as its policy the bringing of the entire restitution program to a conclusion as soon as feasible, preparations were made and the necessary steps were taken in the latter part of June 1948 to terminate the processing of claims by 31 December 1948, and on 11 August 1948 an official announcement was made to the chiefs of the foreign Restitution Missions in Karlsruhe that it was intended to complete, with the possible exception of a small number of meritorious claims, both investigations and shipments of restitutable items by 31 December 1948.

Out of a total of 20,598 claims received (each claim comprising from one to as many as thousands of different items) 9,876 claims had been disposed of, either by restitution or rejection, as of 15 June 1948, i.e. during a period of approximately 2 1/2 years. This left a work-load of 10,722 claims not only to be processed but also, as far as found restitutable, to be shipped within a period of six months.

In order to accomplish this task, seven new operation officers were added to the professional staff in Karlsruhe which had been badly depleted by the resignation of five civilians and the recall of three Air Force officers out of a total of 14 professionals, and additional personnel and facilities were placed at the disposal of the Restitution Branches in the Laender.

Between 15 and 30 June 1948 all claims for securities were taken out of the Karlsruhe office to be handled by Reparations and Restitution Branch, OMGUS, Berlin. Claims for rolling stock and IWT craft were transferred to Transport Group, Office of the Economics Advisor, OMGUS, Berlin. All remaining claims were screened for small-value items and such claims were dropped and the foreign restitution

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missions were informed that these claims would not be processed (individual radios, cannibalized automobiles, pieces of furniture and clothing, etc.). By 30 June 1948, the total outstanding claims were thus reduced by 1885, including 194 claims which were dropped during that period for non-location and 60 claims which were satisfied. By 31 December 1948, the target date, all claims outstanding on or after 1 July 1948 (8637) had been disposed of except for 140 French claims for motor vehicles, one Czech and one Soviet claim, decision on which was pending in Washington and Berlin respectively, and 50 Hungarian claims.

Shipments not completed as of 31 December 1948 involved French, Czechoslovak and Italian property. By 15 March 1949 only 106 French motor vehicles remained to be shipped.

The attached "Progress Reports of Restitution Claims" as of 30 June 1948, 31 December 1948 and 28 February 1949 are the only type of statistical reports available as of this date. As far as values are concerned, these reports are necessarily incomplete and not 100% reliable, since they are based on estimates. The valuations used hereunder are taken from these reports and will be subject to correction if and when adjusted figures become available.

16. Property Restituted

Non-cultural property claimed and restituted included a wide range of articles such as industrial machines, motors and equipment of any description, motor vehicles, motorcycles, trucks and trailers, streetcars, ferrous and non-ferrous metals, precious and semi-precious metals and stones, rolling stock and IWT craft, textiles, clothing and furs, turpentine, oils and resin, wines and spirits, jewelry and personal effects, pharmaceutical and medical supplies, radium, horses and cattle, furniture and household effects.

The following is a summary by nations of values and main categories restituted:

<u>Country</u>	<u>Main Categories of Property Restituted</u>	<u>RM Value (1938)</u>
Austria	industrial equipment, oils and resin, motor vehicles	4,164,222
Belgium	radium, industrial equipment, barges, industrial diamonds, non-ferrous metals	11,258,789
Czechoslovakia	industrial equipment, personal effects and jewelry, motor vehicles	23,329,957
Denmark	industrial equipment	593,801
France	industrial equipment, horses, motor vehicles, wines, personal effects and furniture	57,755,661
Greece	miscellaneous	

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<u>Country</u>	<u>Main Categories of Property Restituted</u>	<u>RM Value (1938)</u>
Hungary	gold, silver, horses, bridge building equipment, hospital equipment, machinery, motor vehicles	126,081,613
Italy	industrial equipment, non-ferrous metals, streetcars, silver	10,709,538
Luxembourg	industrial equipment, personal effects	373,475
Netherlands	diamonds, barges, industrial equipment	42,440,817
Norway	furs, non-ferrous metals, industrial equipment	1,579,700
Poland	industrial equipment, horses	10,882,012
Roumania	barges, motor vehicles	1,055,257
U.S.S.R.	agricultural equipment, vehicles, scrap	292,730
Yugoslavia	non-ferrous metals, barges, industrial equipment	15,442,422

17. Restitution Dates

Restitution applied to property which was removed by the Germans from territories which they had occupied. No quadripartite decision was ever made as of which date the various countries were to be considered occupied. In agreement with the Office of the Director of Political Affairs, the following dates were established as applicable in the case of United Nations:

Belgium	10 May 1940
Czechoslovakia	
Sudetenland	1 October 1938
remainder	15 March 1939
Denmark	9 April 1940
France	17 May 1940
Greece	28 October 1940
Luxembourg	10 May 1940
Netherlands	10 May 1940
Norway	9 April 1940
Poland	1 September 1939
U. S. S. R.	22 June 1941
Yugoslavia	6 April 1941

For Austria, Washington directive fixed 12 March 1938 as the date of occupation.

The Peace Treaties with ex-enemy nations provided the following occupation dates with respect to restitution:

Hungary	20 January 1945
Italy	3 September 1943
Roumania	12 September 1944

K.A. deKEYSERLINGK
 Deputy Chief for
 Industrial Restitution

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RESISTANCE & DESTRUCTION

(A)

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Return of Currency to Country of Issue

<u>Country of issue</u>	<u>Shipping Ticket No.</u>	<u>Foreign Currency Total</u>	<u>FED estimated or nominal valuation</u>
USSR (Claim #599-R)	18	813 sealed bags Russian Rubles (Total rubles unknown)	\$ 1.00
England	13	2 boxes Pound Sterling (believed counterfeit)	\$ 1.00
England	210	£ 325,355-4-4	\$ 1,301,400.00
France	136	Fras. 2,711,461,250.00 (none legal tender)	\$ 1.00
France	137	Fras. 7,577,045.00	\$ 25,004.25
France	138	Fras. 87,328.20	\$ 288.18
Denmark	164	Dkr. 1,375,335.10) Skilling 236.00)	\$ 274,000.00
Luxembourg	166	Fras. 980.57½	\$ 20.00
The Netherlands	167	Guilders 2,705,975.24½	\$ 1,026,000.00
Czechoslovakia	170	Korun 271,712.61	\$ 2,700.00
Greece	175	Drachmas 5,753,347,369.55	\$ 1.00
Norway	176	Kroner 9,668,470.89	\$ 1,935,000.00
Belgium	177	Fras. 48,477,575.18	\$ 1,100,000.00
Italy	178	Lire 59,273,811.25) Drachmas 12,125.00)	\$ 120,000.00
Poland	183	Zloty 64,997,094.50) Marek 31,113.80)	\$ 1,000.00
Yugoslavia	184	Dinars 8,230,784.25	\$ 1.00
South Africa	185	£ 2,895,15.8½	\$ 11,600.00
India	189	Rupees 30.00) Annas 5.½)	\$ 10.00

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<u>Country of issue</u>	<u>Shipping Ticket No.</u>	<u>Foreign Currency Total</u>	<u>FID estimated or nominal valuation</u>
U.S.A.	195	\$ 3,561,305.88	\$ 3,561,305.88
U.S.A.	163	\$ 125.00	\$ 125.00
Canada	196	Can.\$ 9,021.59	\$ 8,750.00
Australia	209	L 8.10.11	\$ 34.00
New Zealand	220	L -.10.1	\$ 2.00

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(B)

Belgium

<u>Claimant Nation</u>	<u>Shipping Ticket No.</u>	<u>Claim #</u>	<u>Type of Property</u>	<u>Total Value</u>
Belgium	55	19704-B	42 sealed envelopes from Dachau concentration camp	\$ 1.00
Belgium	139	20254-B	Paybooks, bankbooks, securities, jewelry, and misc. items	\$ 1.00
Belgium	219	20599-B	Securities	\$ 1,277.00

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England

<u>Claimant Nation</u>	<u>Shipping Ticket No.</u>	<u>Claim #</u>	<u>Type of property</u>	<u>Total Value</u>
England	173	none	British PW Effects	\$ 1.00

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France

<u>Claimant Nation</u>	<u>Shipping Ticket No.</u>	<u>Claim #</u>	<u>Type of Property</u>	<u>Total Value</u>
France	19	none	Gold, for account of a) Belgium: 2,336,067,929,00 b) Luxembourg: 50,787,876,00	\$ 85,239,953,00
France	57	19681-F	515 sealed envelopes from Dachau concentration camp	\$ 1.00
France	58	none	1 Marriage contract	\$ 1.00
France	140	20850-F	Money orders, securities, jewelry, bankbooks, etc. (Fres. 48,534.00)	\$ 1.00
France	156	10481-F	Securities (all Concordia shares)	\$ 6,916,504,00
France	157	10481-F	Securities (Concordia coupons only)	\$ 100,000.00
France	159	none	Pierre Laval Currency	\$ 12,647.00
France	160	10481-F	Securities (all Columbia shares)	\$ 2,000,000,00
France	161	10481-F	Securities (Columbia coupons only)	\$ 25,000.00
France	217	20600-F	Jewelry, Currency, checks, gold etc.	\$ 127,225.00
France	218	20601-F	Securities	\$ 5,328,030.00

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Italy

<u>Claimant Nation</u>	<u>Shipping Ticket No.</u>	<u>Claim #</u>	<u>Type of Property</u>	<u>Total Value</u>
Italy	60	19678-I	100 sealed envelopes \$ from Dachau concen- tration camp	1.00
Italy	61	19679-I	Documents and checks \$ (face value 6,050 Lire)	1.00
Italy	81	15461-I 19751-I	Platinum \$	120,000.00
Italy	141	20283-I	Postal orders, checks, \$ stamps, and misc. items (approx. Lire 45,000.00)	1.00
Italy	215	none	Stamps \$	5.00

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Luxembourg

<u>Claimant Nation</u>	<u>Shipping Ticket No.</u>	<u>Claim #</u>	<u>Type of Property</u>	<u>Total Value</u>
Luxembourg	62	19685-1	54 sealed envelopes from Dachau concentration camp	\$ 1.00

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The Netherlands

<u>Claimant Nation</u>	<u>Shipping Ticket No.</u>	<u>Claim #</u>	<u>Type of Property</u>	<u>Total Value</u>
The Netherlands	14	4481-H(1)	Jewelry	\$ 2,245,422.00
The Netherlands	18	4481-H(2)	Jewelry	\$ 774,857.00
The Netherlands	20	none	Gold ounces 944,704,9183	\$ 33,064,672.00
The Netherlands	63	19703-H	55 sealed envelop. from Dachau concen- tration camp	\$ 1.00
The Netherlands	64	19704-H	3 Bank books	\$ 1.00
The Netherlands	148	20472-H	Paybooks etc.	\$ 1.00

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Norway

<u>Claimant Nation</u>	<u>Shipping Ticket No.</u>	<u>Claim #</u>	<u>Type of Property</u>	<u>Total Value</u>
Norway	65	19750-1	85 sealed envelopes from Dachau concentration camp	\$ 1.00

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Box 12*REPARATIONS & RESTITUTION*RESTITUTION BRANCH HISTORY

period beginning 8 May 1945 to 30 June 1946

DATES OF IMPORTANCE IN
HISTORY OF RESTITUTION BRANCH

5 January 1943	Inter-Allied Declaration Against Acts of Dispossession Committed in Territories under Enemy Occupation or Control, issued by Delegates from 18 Government in London
September 1944	Law 52 promulgated by SHAEF
22 November 1944	Issuance of Draft Directive No. 2 on Control of Works of Art and Monuments and Treatment of Archives
7 April 1945	Basic Preliminary Plan of Allied Control and Occupation of Germany, Annex XXI (RD&D), issued by US Gp. CC.
10 May 1945	Directive No. 1067, issued by Joint Chiefs of Staff
June 1945	Establishment of Munich Central Collecting Point at Munich, Bavaria
June 1945	Establishment of Marburg Collecting Point at Marburg, Greater Hesse
6 July 1945	Ambassador Pauley circulated definition of "Restitution" to the Allied Commission on Reparations in Moscow
August 1945	Establishment of Wiesbaden Collecting Point at Wiesbaden, Greater Hesse
22 August 1945	First restitution from U.S. Zone - Return of Ghent Altarpiece to Brussels, Belgium
September 1945	Restitution of the Strasbourg Cathedral Stained Glass Windows
24 September 1945	Directive issued establishing Interim Restitution for U.S. Zone
28 September 1945	Opening of Oberammergau Collecting Depot for Archives in Bavaria
October 1945	Interim Restitution Policy put into effect in U. S. Zone
12 December 1945	Coordinating Committee approved uniform procedures for restitution of cultural objects looted by Germans

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- December 1945** Paris Conference on Reparations
- 21 January 1946** Adoption by Allied Control Council of "Definition of Restitution"
- 1 March 1946** Activation of Offenbach Archival Depot at Offenbach, Greater Hesse
- 7 March 1946** Cable, regarding Restitution to Ex-enemies received from Joint Chiefs of Staff
- 23 March 1946** Official interpretation of definition of "Restitution"
- 17 April 1946** Quadripartite Procedures for Restitution approved and passed by Coordinating Committee
- 20 April 1946** Publication, by the Ministerpräsidenten of the Länder, of a German Law requiring all Germans to declare all property in their possession that might be subject to restitution.
- 26 June 1946** U.S. Member submitted to the Coordinating Committee a paper proposing restricted restitution out of Germany to five additional nations formerly allied with Germany: Austria, Finland, Hungary, Italy and Romania.

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Comments by Robert Service

GERMANY'S LOOT BEING RESTORED TO OWNERS

In the sixty-eight long months between September 1939 and May 1945, when the Wehrmacht ransacked France, Denmark, the Netherlands and from Spitzbergen to Athens, the wealth of a continent was in the grasp of conquerors who coveted much and squandered little. They saw, they plundered; raw materials and industrial machinery for German factories, locomotives and steamtrains for German transport, furniture and paintings for German museums and German households. They did not consider sea-going barges too large, nor raids of pillage too small, to deserve their attention. Their purpose was now to fatten Germany, now to bleed a defeated enemy, now simply to feed the lust for loot; their methods varied from crude and careless pillaging by invading troops to obscure and tangled manipulations of bank deposits and national currencies. They took hundreds of tons of invaluable artistic and sentimental value as well as thousands of other items the value of which must be estimated in the hundreds of millions of dollars.

Long before the end of hostilities it was acknowledged throughout the Allied world that the return of this property was dictated by considerations of justice, morale, and common sense. Representatives of the nations that were thus equipped attached great importance to the recovery of this property, holding it indispensable to the revival of their industry, transportation, and national spirit. They urged that property removed from their territory and found in Germany should be returned to them even though the Just German possessor might have acquired it by full and fair payment, and the occupying powers agreed on the basis of the historic principle that stolen property is recoverable by the original owner regardless of the circumstances in which the current possessor has obtained it. In London on 5 January 1943 delegates from eighteen governments, including those of the United Kingdom, the Union of Soviet Socialist Republics, the United States, and the French National Committee, issued an "Inter-Allied Declaration against Acts of Dispossession Committed in Territories under Enemy Occupation or Control", in which they announced that they "reserve all

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their rights to declare invalid any transfers of, or dealings with, property rights and interests...situated in the territories which have come under the occupation or control...of the Governments with which they are at war...This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected."

In September, 1944, soon after United States troops had crossed the German border, the Supreme Headquarters Allied Expeditionary Forces (SHAEF) promulgated "Law 52", enabling the Allies to take the action envisaged in the London Declaration. Law 52 made all property in Germany subject to seizure and management by military government. It covered not only property owned or controlled by the German Government but also the property of organizations and clubs dissolved by military government, property of the governments and citizens of any nation at war with the Allies, and property of absentee owners, including the governments and citizens of the United Nations. The law prohibited transactions in cultural materials of value or importance regardless of ownership and in property owned or controlled by religious, eleemosynary, educational, cultural, and scientific institutions. Everyone having custody of property covered by the law was ordered to hold it subject to the direction of military government and to accept certain responsibilities for custody, preservation, and keeping of records.

Law 52 is thus the foundation of "Property Control", which has provided a most important index of property subject to return to its owners in formerly occupied nations.

The mechanism of such return or restoration, which came to be known as "restitution", was set in motion for the United States forces of occupation by a paragraph in Directive # 1067 dated 10 May 1945 from the Joint Chiefs of Staff:

"You will carry out in your Zone such programs of reparations and restitution as are embodied in Allied agreements and you will seek agreement in the Control Council on any policies and measures which it may be necessary to apply throughout Germany to ensure the execution of such programs."

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It was soon after this that the first restitution was made out of the U.S. Zone. On 22 August 1945 the famous altarpiece of the Adoration of the Lamb, by the brothers Van Eyck, was flown by special plane from Munich to Brussels and delivered to representatives of the Belgian Government. This was followed by restitution of small quantities of other artistic and later industrial property on the basis of interim instructions from the War Department under which the Reparations, Deliveries, and Restitution Division (subsequently the Restitution Branch of the Economics Division) operated pending the adoption of a quadripartite definition of restitution.

The conditions of restitution had been first outlined at the quadripartite level in Annex XII to the Basic Preliminary Plan of Allied Control and Occupation of Germany, completed on 29 May 1945. On 6 July 1945 Ambassador Pauley circulated a definition of restitution to the Allied Commission on Reparations in Moscow, and representatives of the Soviet Union, the United States, and the United Kingdom presented their views on restitution at Potsdam. In the Berlin Protocol, however, no mention is made of restitution.

Late in 1945 the Directorate of Reparations, Deliveries, and Restitution, which had been set up under the Control Council and the Coordinating Committee, discussed and elaborated a quadripartite definition of restitution which was adopted by the Control Council on 21 January 1946 in the following form:

DEFINITION OF THE TERM "RESTITUTION"

1. The question of restitution of property removed by the Germans from Allied countries must be examined, in all cases, in light of the Declaration of January 5th, 1943.
2. Restitution will be limited, in the first instance, to identifiable goods which existed at the time of occupation of the country concerned and which have been taken by the enemy by force from the territory of the country.

Also falling under measures of restitution are identifiable goods produced during the period of occupation and which have been obtained by force.

All other property removed by the enemy is eligible for restitution to the extent consistent with reparations. However, the United Nations retain the right to receive from Germany compensation for this other property removed as reparations. As to goods of a unique character, restitution of which is impossible, a special instruction will fix the categories of goods which will be subject to replacement, the nature of these

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replacements, and the conditions under which such goods could be replaced by equivalent objects.

4. Relevant transportation expenses within the present German frontier and any repairs necessary for proper transportation including the necessary manpower, material and organization, are to be borne by Germany and are included in restitutions. Expenses outside Germany are borne by the recipient country.

5. The Control Council will deal on all questions of restitution with the Government of the Country from which such objects were looted.

COML/P(46)3(Revise)

Article 2 of this definition was later clarified by an official interpretation adopted early in March 1946:

INTERPRETATION OF ARTICLE 2, OF THE DEFINITION OF THE TERM RESTITUTION, COML/P(46)3(Revise)

1. In consideration of paragraph 2 of COML/P(46)3(Revise), it appears that where an article has been removed by force at any time during the occupation of a country, and is identifiable, the right to its recovery is an absolute one. The word "force" covers duress which may occur with or without violence. In this concept are also included looting, theft, larceny and other forms of dispossession whether they were carried out by an order of the German authorities, or by officials of the German civil or military administration, even when there was no order of the German authorities, or by individuals.

Also included are acquisitions carried out as a result of duress, such as requisitions or other orders or regulations of the military or occupation authorities.

2. In the third sub-paragraph of paragraph 2, it appears that by "all other property removed by the enemy" it was desired to include all property which was removed in any other way. This implies that restitution of property may be claimed whatever may have been the means or the reasons of dispossession.

But the property removed in such manner does not entail an "absolute right" to restitution, which may be granted only within the limits consistent with reparations.

3. These "limits consistent with reparations" must be understood in the following manner. If property claimed on account of restitution is indispensable for the operation of a whole factory allocated on account of reparations, this property may be retained and not restituted.

Restitution will be made only if the removal of the equipment does not seriously diminish the production capacity of the plant and does not destroy the completeness of the equipment to such an extent that when this plant is delivered on account of reparations it loses all value owing to the fact that restitution has been made.

If restitution of the object itself is not granted, the right of the claimant nation is satisfied by means of compensation to be taken from German property in objects of equivalent value, as far as possible by equipment, manufactured goods and raw materials.

NOTE: The U.S. and U.K. delegates agree with the above interpretation provided that:-

"Compensation in lieu of restitution must not create additional expenditures by the U.S. and U.K. in support of their respective claims."

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Reservations & Restitution

This definition and its interpretation have served as the foundation of United States policy and procedure in restitution ever since their adoption. As specific cases have been presented for decision officials of military government have consistently endeavored to contribute to uniformity of application throughout the four zones by a strict and faithful reading of the distinctions and the limitations implied in the definition.

For example, the list of nations eligible for restitution has been limited, by all ^{to date} four occupying powers, as follows: "no nation shall be eligible...unless its territory was occupied in whole or in part by the German armed forces or the forces of her allies, and unless it is a United Nation, or shall have been specified by the Allied Control Council." Only eleven nations meet these qualifications: Belgium, Czechoslovakia, Denmark, France, Greece, Luxembourg, the Netherlands, Norway, Poland, the USSR, and Yugoslavia. (The problem of restoring property to victims of Nazism now or formerly resident in Germany, sometimes loosely called "internal restitution", lies outside the jurisdiction of the Restitution Branch.)

A second point to be observed in connection with the definition is the absence of any expressed relation between restitution and the minimum level of the German economy. To think of restitution as diminishing the German economy by removing property from an already impoverished country is to make the mistake of supposing that all property located on German territory in May 1945 belonged to the German economy. The Allied Control Authority has taken the position that, as identifiable goods removed to Germany from the territory of an occupied nation were never rightly part of the German economy (unless the Germans had owned them before the war or had given in return goods, services, or currency representing equivalent value), restitution ought not to be limited by considerations of the minimum German economic level. Under the special conditions contemplated in the last sentence of Article 2 of the Definition, these considerations do figure, by virtue of the reservation made by the U.S. Delegate to the Coordinating Committee to the effect that compensation in lieu of restitution must not create additional expenditure by the U.S. in support of its zone.

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Finally, it should be observed that in principle restrictions to a "one-way street" -- or, to change the metaphor, that there are no strings attached. The occupying powers will not use restrictions from Germany to a claimant nation for purposes of bargaining for "reverse restrictions" of German property. To put it in another way, the problem of German external assets is regarded as a separate issue from that of restrictions. As we shall see later, military government has, for the sake of the European economy, qualified but not denied this principle in the important case of railroad rolling stock.

Upon the quadripartite adoption of a definition of restricted, United States officials were able to work out a formal procedure for restrictions, based on the system already in practice in the U.S. Zone under the direction of the Restriction Control Branch at Frankfurt-am-Main. While preparing TRM 19, "Restrictions", of Military Government Regulations, the U.S. Delegation submitted a paper on restriction procedure to the RMR Direct-orate, which, after making some changes, approved it on a quadripartite basis in mid-April.

The adoption of the definition also accelerated the filing and processing of actual claims. In the first months of the occupation claimant nations and individuals had submitted many specific requests: machine tools from the Fabrique Nationale d'Armes, Belgium; structures and sporting rifles from the Netherlands; laboratory equipment from the Carolina University in Gueloholstadt; gunpowder presses from the National Powder Works, France. In October, 1945, the eleven United Nations concerned had been invited to send consolidated lists of property believed to be in the U.S. Zone of Germany as soon as property belonging to a claimant nation was actually located, that nation was invited to send a statement of four persons to the zone to identify the property, accept releases, sign receipts, and supervise the delivery. The first statement to arrive was that of the Netherlands, which has been operating assistantly and effectively ever since. They were soon joined by representatives of France and Belgium, and before mid-April 1946 regular missions had arrived from all the eligible nations save Greece and the USSR. In special cases restrictions have been made to representatives other than the

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regular restitution missions.

Between July 1945 and mid-April 1946 the eligible nations filed 1029 claims; many a claim, of course, included a large number of different though related items. 137 claims were dropped for reasons of duplication, location of the property outside the U.S. Zone, etc.

403 claims were partially or entirely located. The extensive dispersal of German central records and the disorganization of German communications at the end of the war made location especially difficult. In some cases location was established by U.S. officials acting on information received from the claimant nations; sometimes property was found more or less incidentally by occupying troops; sometimes German civilians voluntarily reported possession of foreign property.

Releases were issued on 403 claims, and 202 were entirely or partially delivered. The Netherlands filed the most claims with 319, or 31 per cent. of the total; France led in the number of deliveries with 80, or 39 per cent. of the total.

The range in the types of property discovered and restored has been wide and interesting. Naturally enough, the largest single category has been industrial equipment. *next to works of art (restored after)* We have located and returned rubber-manufacturing machines for Belgium, 10,000 hand tools for the Netherlands, drills, lathes, and planers for several other claimants. On 6 March 1946 40 carloads of heavy machinery were moved from Bavaria to the Peugeot Automobile Works in Sochaux, France; on 10 April a Norwegian freighter at Bremen picked up 1,000 tons of transformers, construction parts, motors, and copper and aluminum rolls which the Germans had removed from the Nordisk-Lottmetall aluminum and magnesium factory.

Another important class of restitutable property is scientific equipment. This class is represented by laboratory apparatus from Carolina University and instruments belonging to the Chemical Institute of Prague, Czechoslovakia; the laboratories of the bacteriological, veterinary, chemical, and biological departments of the University of Cracow, restored to Poland from Roth in Bavaria; and the large Leyden Magnet, returned to the Netherlands.

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paid for the horses at the rate of 3,000 francs for a mare and 50,000 francs for a stallion; the money was, however, paid not to the owners but to the Vichy Government, which then repaid it to Germany as occupation cost.

The list of aids and aids that have turned up in this great Lost-and-Found operation could be extended for pages. Restitution has been made of two carloads of geographical maps issued by the Red Army General Staff; of plans of the disposition of the lands of the collective farmers of the Ukrainian Soviet Socialist Republic; of ten tons of archives representing the entire French documentation of the Maginot Line; of 801 sacks containing Russian roubles; of Polish industrial gold and platinum.

Restitution activity is expected to increase in the coming months. On 29 April 1946 the Ministerpräsident of the Länder published a German Law requiring all Germans to declare all property in their possession that might be subject to restitution, and the analysis of these declarations should divulge significant quantities of restitutable items, especially in the domain of consumer's goods. The restitution missions from eastern European nations, which were among the last to arrive, will submit more claims and furnish more information as they become acclimated to the United States procedure. Although restitution alone cannot play the major role in the enormous task of European reconstruction, it is furnishing the United Nations with important and well-appreciated assistance toward economic and cultural recovery.

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RESTITUTION & REPARATIONS

PROBLEMS AND ACCOMPLISHMENTS

With the approval by the Allied Control Council of the definition of the term restitution, the next task confronting the Restitution Branch was that of formulating operational procedures for restitution in the U. S. Zone of Germany.

These procedures, when modified to conform in all respects to the Definition of Restitution, provided the basis for the operational phase of restitution in the Zone. An outline of the procedure, in brief, follows:

- a. Receipt from foreign governments of claims for restitution.
- b. Processing of such claims.
- c. Information to be supplied in declarations by Germans regarding property subject to restitution
- d. Physical removal of identifiable looted property.
- e. Standard methods for execution of standard forms for release of property subject to restitution, receipts for such property, and declassifications of such property by Germans.

Claims originally were received through diplomatic channels. On establishment of a properly accredited restitution mission, however, the claimant nation submitted its claim directly to the Office of Military Government. Materially, this expedited the operation since the volume of property claimed in lists submitted ran into hundreds of thousands of items. Restitution missions were established at Frankfurt by France, the Netherlands, Czechoslovakia, Belgium, and Luxembourg. Four additional nations (Poland, Denmark, Norway, and Yugoslavia) were later invited to send missions to Frankfurt. Greece and Russia, the remaining nations eligible for restitution, were also invited.

Military Government regulations required that all Germans in the U. S. Zone declare all property, which ~~was~~ had been in their possession and which was believed to be subject to restitution, to the Minister President of the appropriate Land. Such declarations were carded, filed and maintained by the office of the Minister President according to a standard commodity classification. These records were available at all times for examination by Military Government Officers or visiting missions. By comparing the declarations so made, the percentage of looted property located increased markedly.

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Entry PROPERTY
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Standard procedures were established with regard to physical removal of property subject to restitution. Costs up to the frontiers of Germany were ^{to} borne by German authorities and costs beyond those frontiers were ^{to} borne by the claimant nation. With respect to physical removal of identifiable property, definite instructions were issued to the field and were in effect with regard to:

- a. Safeguarding of property subject to restitution
- b. Insurance of such property
- c. Dismantling, crating, and loading of such property
- d. Repairs to such property
- e. Transportation of such property
- f. Freight points and bills of lading.

Procedures were also developed for the U. S. Zone providing that during the processes of inventorying and appraising industrial plants which have been earmarked for reparations, every effort would be made to identify equipment subject to restitution. Property and equipment believed to be subject to restitution was listed separately and was not included in the inventory and appraisal of plants earmarked for reparations. The assistance of visiting restitutions missions was obtained in identifying and establishing ownership of such equipment.

With regards to cultural objects, the Coordinating Committee, on 12 December 1945, approved uniform procedures and notices for the restitution of cultural objects now in Germany but formerly in German occupied countries. The action provided that easily identifiable objects will be returned to the government of the country from which they were removed, that only objects removed by the Germans after occupation will be returned, that occupation forces in Germany will maintain inventory cards of all objects, that claimant countries will submit request cards, that receipts will be executed on deliver, and that a panel will pass judgment on identification and removal claims.

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REPARATIONS & RESTITUTION

-3-

With the adoption of the definition of restitution, the filing and processing of actual claims was greatly accelerated. In the first months of the occupation claimant nations and individuals had submitted many specific requests: machine tools from the Fabrique Nationale d'Armees, Belgium; streetcars and sporting rifles from the Netherlands; laboratory equipment from the Carolinen University in Czechoslovakia; gunpowder presses from the National Powder Works, France. In October, 1945, the eleven United Nations concerned had been invited to send consolidated lists of property believed to be in the U. S. Zone of Germany; as soon as property belonging to a claimant nation was actually located, that nation was invited to send a mission of four persons to the Zone to identify the property, accept releases, sign receipts, and supervise the delivery. The first mission to arrive was that of the Netherlands, which has been operating assiduously and effectively ever since. They were soon joined by representatives of France and Belgium, and before mid-April 1946 regular missions had arrived from all the eligible nations save Greece and the USSR. In special cases restitution ~~was made~~ made to representatives other than the regular missions.

Between July 1945 and mid-April

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By AM NARA Date 8-5-77

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REPARATIONS & RESTITUTION

MEMORANDUM
ON THE PROBLEM OF RESTITUTIONS
TO FRANCE

CHAPTER I

THE LEGAL AND MORAL FOUNDATION OF RIGHTS
TO RESTITUTION

In all civilised countries, the various methods of the transfer of property, whether movable or immovable, are ruled by very precise and carefully established laws. These latter are intended to ensure general security and to prevent arbitrary ruling. They are founded on the principle of freedom in the matter of deals and transactions. Alternately, it should universally be admitted that transaction brought about by force or by cunning under constraint is distorted to the extent of becoming nil and void.

Exceptional war circumstances should in no ways prevent the application of these laws, and for many centuries civilised nations have endeavoured to enact them against the ancient barbarian custom of acquisition by force.

Hence, individual looting, which is one of the most ancient forms of this barbarian custom, is, in our times, subject to penal measures by the laws of all civilised countries.

At the same time as legislation acquired precision in that respect, other more subtle methods of illegal acquisition of property made their appearance, thus counterbalancing the efforts towards legality. These methods were sometimes applied on a big scale by the belligerent nation herself while acting as public authority. The problem was thus transferred from the sphere of private rights to that of public rights, and this resulted in a certain amount of confusion by which even the keenest minds were liable to be taken in.

This way of circumventing law first appeared in the course of World War I, and rapidly took a great extension. As a result, the problem featured largely in the treaties signed at the end of that war, and efforts were made to solve it in the sense of equity and justice.

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- The first paper on the subject is Appendix No. 2 (Par. 48) of the Armistice Convention of November 11, 1918.
- The second is Par. 6 of the Protocole of January 16, 1919 on the Renewal of the Armistice Convention.
- The third is another Protocole of March 25, 1919.

These combined papers cover the entire problem of all manner of restitutions which the countries invaded by Germany were in a position to claim. Their stipulations were later taken up in the Treaty of Versailles wherein this question figures in Articles 230, 339, 241 and 243 (last par.) of Part 8.

At the same time, and in order to carry out these stipulations which had been agreed upon, the German Government published on March 28, 1919 a Decree forcing their nationals to declare, under penalty of fine or prison, all French and Belgian property in their possession.

As for the Treaty of Versailles, in the last Par. of Article 243 mentioned above, it established an extremely precise distinction between Reparations and Restitutions, stipulating that the latter could in no circumstances be written off to Germany's credit on the Reparations account.

After World War II, having estimated the enormous scope of damage thus caused to the invaded countries, the Allied Nations published in London, on January 5, 1943, a solemn statement upon the actions of spoliation committed in occupied territories by the enemy or under his control. By that statement, the Allied Nations officially warned all parties concerned that they would seek by every possible means to put a stop to the methods of spoliation inflicted upon Nations and peoples outrageously assaulted and robbed by the governments with whom they were at war.

This statement stipulates that the undersigned Governments reserve the right to declare null and void all transfers and exchanges carried out in the shape of apparently legal transactions, even if these transfers and exchanges are pretended to have been brought about without pressure.

Later, the Allied Control Authority in BERLIN took up the same idea in paper CORC/P (46) 3 amended, of January 2, 1946 — (Definition of the term Restitution) — The latter paper implicitly states in Par. 1 that the problem of restitution of property removed by the Germans from territories of Allied Nations should always be examined in the light of the statement of January 5, 1943.

Furthermore, Par. 2 of this paper states that all property removed by the enemy may be subject to restitution within the limits consistent with reparations, and paper CORC/P (46) 140 of March 23, 1946 specifies in Par. 3 that these limits consistent with reparation should be understood as follows: "When an article claimed for restitution is necessary for the operation of a unit such as a plant assigned to Reparations, it may be withheld and not restituted. Nevertheless, if the restitution of the article itself is not granted, the claimant nation retains its right to restitution in the shape of articles of equivalent value consisting as far as possible of equipment, manufactured articles, and raw materials."

This, in fact, is the spirit in which quadripartite paper CORC/P (46) 143 of April 17, 1946, (Quadripartite Procedure for Restitutions) was approved, and wherein Par. II stipulated that only in the limits of possibility, should each claim

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File MISC. RESTITUTION
Box 27

RESTRICTED

I N C O M I N G M E S S A G E

RESTRICTED

ROUTINE

FROM : AGWAR FROM JCS CORRECTED COPY
TO : USFET FOR MCNARNEY
USFA FOR CLARK
INFO : OMGUS
: USFET G 5
REF NO : WX 85682

The following, received from the State, War and Navy Departments, is forwarded for your information and guidance:

- "1. You will make available on demand to duly accredited representative of intergovernmental committees on refugees (IGOR) all valuable personal property which represents loot seized or obtained under duress from political, racial, or religious victims of Nazi Government or its satellite governments or nationals thereof which was or may hereafter be found, seized or confiscated by USFET or by local authorities acting under direction or control of US Forces, subject to following conditions.
- "A. That property cannot be restituted to government pursuant to WX 85965, Nov 1945 and WX 99226, March 1946 as amended and modified by control council action, because determination of national origin is impractical.
- "B. That property cannot be restored to lawful owners under laws in force in place where presently found either because lawful owner has died or ceased to exist without legal successor or because determination individual ownership is impractical.
- "C. That ownership interests in real property located in Germany and German Currency or instruments of exchange payable in German Currency will be excepted.
- "D. That Jewish books, manuscripts, and literature of cultural or religious importance will be accepted and disposed of pursuant to separate directive.
- "E. That detailed inventory and tentative agreed valuation will be made of property subject to transfer to IGOR hereunder and transfer will be made upon signing of joint inventory which shall be made part of receipt.

RESTRICTED

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By JW NARA Date 9-10

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File MISC. RESTITUTION
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RESTRICTED

"2. You will permit property transferred hereunder to be removed from Germany or Austria or to be sold therein if payment can be made outside Germany or Austria in acceptable foreign currency, not withstanding any laws for control of foreign exchange, to end that maximum value be obtained therefrom by IGCR.

"3. You will seek to obtain control-council agreement to disposition pursuant to terms of this directive of any property disposition of which is reserved to control council. Even prior to such agreement, you will nevertheless execute directive and you may advise other representatives of control authority that you are doing so pursuant to obligation assumed by your Government in subscribing to Paris agreement on reparations.

"4. Expression 'Valuable personal property' as used in Paragraph 1 of this directive shall be interpreted to exclude ordinary items of furniture, clothing and other personal property of small intrinsic value and to include any such items of uncommon value. In determination of impracticality of identification pursuant to Paragraph 1, Subparagraphs A and B, of this directive regard shall be had to extent of commingling with other property and difficulty and expense of determination of ownership in comparison with value of property. All property as defined herein, will be considered as falling within this directive and will be made available to IGCR unless available evidence clearly is to contrary. You will establish such administrative machinery as may be necessary to execute ~~in~~ this directive promptly and effectively.

WX 85965 is AGC IN 15174 8 Dec 45 Info
WX 99226 is AGC IN 22212 8 Mar 46 Info

AGC IN 41877

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Entry REPARATIONS RESTITUTION
File MISC. RESTITUTION
Box 27

REST.

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SECRET
ROUTINE

TO : AGWAR TO WDBCA ES
INFO : USFA, USFET
FROM : ONCUS SIGNED CLAY

REF NO : CC-5664 TOO: 161550A OCT 46/ehd

Reference your WX-81072 and our CC-9626. While we too agree with the broad objective of turning over unclaimed or unidentifiable Jewish religious and cultural property to an International Jewish Organization as trustee for Jewry generally, this Hqs does not believe that as part of the quadripartite Govt of Germany, it is in a position to turn over any of its responsibilities in its Zone of Occupation to any organization not connected with Mil Govt or with any other Govt. Therefore any such organization should be permitted to take possession of religious and cultural objects now in possession of individuals or institutions only to the extent that the organization establishes its claim as successor in interest under the Restitution Law, which, when enacted, will provide comprehensive measures covering restitution of the property of persecutees. With respect to religious and cultural objects now in possession of Mil Govt at collection centers, it is felt that Mil Govt might dispose of such objects without resort to the machinery of the Restitution Law but disposal to an International Agency would necessarily be under procedures which would allow adequate time for filing of claims by individual claimants and for the hearing of such claims. Furthermore, if claims are to be filed by an International Agency on behalf of Jewish interests in general it is considered imperative that the Agency be truly representative of Jewish interests throughout the world with adequate provision in particular for the representation of Jewish interests now in Germany.

We request that no action be taken affirming proposals in WX-81072 at least until you have received and studied our draft law which is being forwarded airmail.

Moreover, it is felt here that proposals for transfer of cultural materials now owned or possessed by German State, Municipal, and other publicly owned or maintained cultural institutions "whenever and however acquired" are violations of the Hague Convention of 1907 which together with the requested power of seizure could if utilized as a precedent for other purposes by other powers, will lead to the cultural rape of Germany.

If in fact it is desired that action similar to proposals of WX-81072 be taken in any part of Germany, recommend that the entire matter be treated on a quadripartite level. If this recommendation is acceptable to you, request we be furnished with details for a paper that might be introduced in Allied Control Authority, which should take into account our draft zonal law on Internal Restitution and Directives on External Restitution included in such documents as your

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Entry EXTERNAL ASSETS
File Policy: GERMAN EXTERNAL ASSETS
Box 650

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

STAFF CABLE CONTROL

INCOMING MESSAGE

CONFIDENTIAL

DATED 031615Z

RECD GERMANY APR 46
467/03 VG

C O N F I D E N T I A L

P R I O R I T Y

FROM : AGWAR SIGNED WARCAD
TO : OMGUS
REF NO : W-83042

Subj: German External Assets

Secy of State has replied in ltr of 22 Mar 46 to ltr from Secy of War of 7 Feb 46 requesting clarification of US govt policy on German external assets. Full text of ltr will be sent you by air courier. In meantime following is summary of main points:

1. Jurisdictional line drawn at Potsdam is basic. Potsdam and law no. 5 taken together continue lines of responsibility established under Potsdam and vest title in GEPC principally for purpose of facilitating elimination of German assets in European neutrals and Turkey.

2. Law 5 designed to meet unprecedented situation in International Law and fill legal gap previously existing prior to passage of vesting decree when Allies as supreme authority in Germany were without legal act on which to base claims to German assets in neutrals. Passage of Law 5 reduced question to 1 of whether exercise of legislative power of ACC as de facto govt should be granted extra-territorial effect by neutrals.

3. It is recognized by State Dept that terms of Law 5 go beyond those stated above by applying to German external assets in areas outside territories of 4 Occupying Powers. Recognized also that Soviet member GEPC has informally asserted interest in external security aspect in the disposition of German assets in which, it is conceded, USSR has no interest.

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Authority NND 773057By SR NARA Date 9-9-99RG 260Entry External AssetsFile Policy: GERMAN EXTERNAL ASSETSBox 650C O N F I D E N T I A L

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4. It is sincerely regretted that Law 5 as drafted implies responsibilities for ACC beyond those required to achieve above objectives and perhaps beyond feasible scope of ACC operations. Source of misunderstanding may have been that Law 5 has since its drafting been regarded principally as means to achieve control over German assets in neutrals rather than as extension of ACC jurisdiction into such diverse and remote areas as Brazil, China, Japan etc. Basic position remains that Law 5 like other acts taken by Allies over 4 years is able means to extripation of German influence and reduction of German external assets to control for disposition as reparations. This position consistent with that of other Occupying Powers. No Soviet interest in security aspects of disposition by other Allies expressed either formally in ACC or through diplomatic channels. USSR has indicated non-interest in disposition, the intent of US govt having been to include within word "disposition" all matters relating to German external assets in areas other than those reserved for Soviet decision under Potsdam. That Soviet Union construes Potsdam as not modified by Law 5 indicated by reported unilateral arrangements with Hungary and perhaps other eastern European countries for disposition of German assets there. Such arrangements made without consultation with or notice to Western Allies or GEPC not objectionable but confirm interpretation of Potsdam and Law 5 described above. Assumed that GEPC will carry out such unilateral arrangements both in east and in west. Although info on disposition in east has not been furnished to western Allies or GEPC, intention of US is to inform USSR and GEPC of disposition in west. WD Feb WX-96688 states intention to keep GEPC advised of progress in negotiations and provided procedure for Gen. Clay to raise question of GEPC participation in negotiations. Intention is also to rely heavily on GEPC for investigations and for action in Germany necessary for elimination of German influence abroad and obtaining possession and power of disposition where such action is necessary.

5. Paris Reparations Act disposes of German assets in territory of signatories. US member GEPC

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

STAFF CABLE CONTROL

INCOMING MESSAGE

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REF NO: W-83042

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6. Although Law 5 applies to German assets in Argentina, Turkey, Eire, etc. steps possible for GEPC to take possession and control raise diplomatic and governmental issues of highest order. Mere representation by US to Argentina would not result in recognition of title of ACC. Therefore remains to be determined what measures will be taken or suggestions made at direction of US govt either by its representative on GEPC or in such other manner as appropriate.

7. Question of application of Law 5 by ACC in such countries as Mexico natl relations.

8. US has proposed exclusion of American Republics which participated in war under Article 9 of Law 5 to take effect only after certification by Inter-American body to be set up under Inter-American Economic and Social Council. Pursuant to Gen Clays suggestion for negotiation of this proposal on diplomatic level, State requested Angell to take matter up with colleagues on reparations commission. This procedure desirable because of Angell's knowledge and because of possible interest of reparations commission in German assets in other American Republics. No certification intended which would exclude German assets in Argentina under present conditions. Difficulties of this procedure less than those resulting from any GEPC attempt to exercise direct jurisdiction over German assets in Brazil, Mexico, Chile, etc. Therefore expected that US Member of GEPC will support agreement which it is hoped to reach between US, UK and France and support specific actions and recommendations made pursuant to this general program.

9. US policy is against reparations from Italy since they would in effect be financed by US and because US interest is in stable and self sustaining

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306220

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 By SR NARA Date 9-9-99

RG 260
 Entry External Assets
 File Policy: GERMAN EXTERNAL ASSETS
 Box 650

C O N F I D E N T I A L

REF NO: W-83042

- 4 -

Italian economy. It is being recommended that German assets in Italy should be turned over to Italy with elimination of German influence supervised by commission of US, UK, France, Italy and possibly the appropriate Mil Authority. Gen Clay and WD will be informed of results of negotiations.

10. For such areas remote from Germany as China a program should be worked out for turning over responsibility for German assets to govt having jurisdiction. Actions of these govts would be cleared on a broad scale with GEPC and ACC.

11. ACC has no territorial jurisdiction outside Germany and no foreign service reporting back to it. Efficient functioning of ACC re German external assets possible only by means of above programs and by utilization of GEPC and ACC for those operations to which that mechanism is suited.

ACTION : FINANCE

INFORMATION : O/SS ECON POL AFF AG RECORDS
ADDED DISTRIBUTION: LEGAL
 (5 Apr 46)

C O N F I D E N T I A L

SCC IN 24330 4 April 46 1100A HB/vg REF NO: W-83042

C O N F I D E N T I A L

NEST

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DECLASSIFIED
Authority MMO 775057
By SR NARA Date 9-9-99

RG 260
Entry EXTERNAL ASSETS
File Policy: GERMAN EXTERNAL ASSETS
Box 650

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
STAFF CABLE CONTROL

INCOMING MESSAGE

DATED 031615Z **CONFIDENTIAL** RECD 040644A APR 46
467/03 VG

C O N F I D E N T I A L

P R I O R I T Y

FROM : AGWAR SIGNED WARCAD
TO : OMOUS
REF NO : W-83042

Subj: German External Assets.

Secy of State has replied in ltr of 22 Mar 46 to ltr from Secy of War of 7 Feb 46 requesting clarification of US govt policy on German external assets. Full text of ltr will be sent you by air courier. In meantime following is summary of main points:

1. Jurisdictional line drawn at Potsdam is basic. Potsdam and law no. 5 taken together continue lines of responsibility established under Potsdam and vest title in GEPC principally for purpose of facilitating elimination of German assets in European neutrals and Turkey.
2. Law 5 designed to meet unprecedented situation in International Law and fill legal gap previously existing prior to passage of vesting decree when Allies as supreme authority in Germany were without legal act on which to base claims to German assets in neutrals. Passage of Law 5 reduced question to 1 of whether exercise of legislative power of ACC as de facto govt should be granted extra-territorial effect by neutrals.
3. It is recognized by State Dept that terms of Law 5 go beyond those stated above by applying to German external assets in areas outside territories of 4 Occupying Powers. Recognized also that Soviet member GEPC has informally asserted interest in external security aspect in the disposition of German assets in which, it is conceded, USSR has no interest.

SCC IN 24330

C O N F I D E N T I A L
CONFIDENTIAL

306222

Copy No. 7

Exempt from paraphrase. Handle in compliance with AR 380-5.

DECLASSIFIED	
Authority	NND 775057
By	SR NARA Date 9-9-99

RG	260
Entry	EXTERNAL ASSETS
File	Policy - GERMAN EXTERNAL ASSETS
Box	650

C O N F I D E N T I A L

REF NO: W-83042

4. It is sincerely regretted that Law 5 as drafted implies responsibilities for ACC beyond those required to achieve above objectives and perhaps beyond feasible scope of ACC operations. Source of misunderstanding may have been that Law 5 has since its drafting been regarded principally as means to achieve control over German assets in neutrals rather than as extension of ACC jurisdiction into such diverse and remote areas as Brazil, China, Japan etc. Basic position remains that Law 5 like other acts taken by Allies over 4 years is able means to extripation of German influence and reduction of German external assets to control for disposition as reparations. This position consistent with that of other Occupying Powers. No Soviet interest in security aspects of disposition by other Allies expressed either formally in ACC or through diplomatic channels. USSR has indicated non-interest in disposition, the intent of US govt having been to include within word "disposition" all matters relating to German external assets in areas other than those reserved for Soviet decision under Potsdam. That Soviet Union construes Potsdam as not modified by Law 5 indicated by reported unilateral arrangements with Hungary and perhaps other eastern European countries for disposition of German assets there. Such arrangements made without consultation with or notice to Western Allies or GEPC not objectionable but confirm interpretation of Potsdam and Law 5 described above. Assumed that GEPC will carry out such unilateral arrangements both in east and in west. Although info on disposition in east has not been furnished to western Allies or GEPC, intention of US is to inform USSR and GEPC of disposition in west. WD Feb WX-96688 states intention to keep GEPC advised of progress in negotiations and provided procedure for Gen Clay to raise question of GEPC participation in negotiations. Intention is also to rely heavily on GEPC for investigation and for action in Germany necessary for elimination of German influence abroad and obtaining possession and power of disposition where such action is necessary.

5. Paris Reparations Act disposes of German assets in territory of signatories. US member GEPC

SCC IN 24330

C O N F I D E N T I A L

DECLASSIFIED
 Authority NUD775057
 By SR NARA Date 9-9-99

RG 260
 Entry EXTERNAL ASSETS
 File Policy - GERMAN EXTERNAL ASSETS
 Box 650

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U. S.)

STAFF CABLE CONTROL

INCOMING MESSAGE

CONFIDENTIAL

REF NO: W-8304

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Authority NUD775057
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RG 260
Entry External Assets
File Policy - GERMAN EXTERNAL ASSETS
Box 650

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REF NO: W-83042

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ACTION FINANCE
INFORMATION O/SS
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AG RECORDS

SCC IN 24330 4 April 46 1100A HB/vg REF NO: W-83042

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Authority MWP 775059
By AVT NARA Date 7/8/55

FIG 260
Recs of Shipment:
Box 437
FED

HEADQUARTERS
UNITED STATES FORCES, EUROPEAN THEATER
Office of Military Government (U. S. Zone)
Financial Branch

(Main) APO 757
9 November 1945

GE-FIN 129.5-2

SUBJECT: Looted valuables

TO : Lt. Col. H. D. Cragon, Chief, Currency Section

1. Reference is made to the matter of accepting from responsible U. S. military authorities financial assets, valuables, and looted materials which have come into the possession of such responsible military authorities as looted property, or property which there is reasonable cause to believe or suspect have been looted, and which are tendered to the Currency section for safeguarding and custody in the Foreign Exchange Depository.

2. It seems desirable that such valuables be received and held in safe custody by the Currency Section for the following reasons:

(a) It is undesirable that custody of such materials be dispersed through numerous military agencies now holding or collecting such valuables which do not have appropriate facilities for safeguarding or custody.

(b) The restitution process would be complicated if custody of such materials were dispersed among many holders.

(c) A substantial amount of the looted material is already held by the Currency Section.

(d) Mr. McGloy, Assistant Secretary of War, has requested and this Headquarters has undertaken to provide at an appropriate time a plan for the disposition of looted materials now held or subsequently acquired, or the proceeds thereof, held by the Currency Section. The intelligent preparation of any such plan would be unnecessarily complicated if custody of such materials were dispersed among many collecting agencies.

3. Accordingly, you are authorized to receive for safeguarding and custody valuables such as gold and silver bullion and coin, foreign currencies, foreign securities, precious stones or jewels, jewelry, gold teeth, and other similar valuables. You should obtain from the agency presenting any such materials a statement in detail as to the nature and source of any such materials. You should not accept any materials of the type which are properly handled by some other agency or Military Government, such as, for instance, paintings which are handled by the Monuments, Fine Arts & Archives Section of the Reparations, Deliveries & Restitutions Branch.

/s/A. U. Fox
A. U. FOX
Acting Deputy Chief

I CERTIFY THAT THIS IS A TRUE COPY:

Paul S. McCarroll
PAUL S. MCCARROLL
Captain, AC
Deputy Chief

DECLASSIFIED
 Authority NND 978025
 By KEN NARA Date 9/30/99

RG 56
 Entry 69A4707
 File GERMANY: LOSTED PROPERTY
 Box 82

Def. Monetary gold

DEPARTMENT OF THE ARMY
 STAFF MESSAGE CENTER
 INCOMING CLASSIFIED MESSAGE

SECRET TOT

PARAPHRASE NOT REQUIRED. HANDLE AS SECRET CORRESPONDENCE
 PRR PARAS 511 and 60a (4), AR 380-5

From: OMGUS Berlin Germany sgd Hays

To: Chief of Staff USA for CSCAD

Nr: CC 3894

16 April 1948

Reurads WX 96654, WX 90566, WX 85682, ourads CC 7904, CC 1701, CC 3450, and State Department telegram from Lovett to DoD, 31 December 1947. Definition of monetary gold is subject.

1. In para 3 of ourad CC 1701 we transmitted to you our working definition for monetary gold which we had based on Angell's definition. Thus we considered monetary gold to represent "gold in such form as to permit it by normal practice to be held as a part of the gold reserves of a central bank, specifically including any gold that can be identified as having been so held." This definition is based only on the form, shape, mint markings, and or assay certificates of gold and not on its source.

2. In ourad WX 90566 in reply to CC 1701, however, you instructed us to be guided by Angell's report and by definition included in Tripartite Gold Commission questionnaire. Since the definition used by TGC is based not on appearance of gold alone but in addition emphasizes the criterion of source, we feel that Mr Angell's definition ("gold in such form as to be a medium of exchange") has been narrowed down considerably and, if used by us, would leave us with certain lots of gold which do not satisfy the monetary category as employed by TGC nor the nonmonetary classification as defined by WX 85682. We are presently

CM IN 4081 (19 Apr 48)

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COPY NO

DECLASSIFIED
 Authority NND 978025
 By KEN NARA Date 9/30/99
 RG 56
 Entry 69A4707
 File GERMANY: LOOTED PROPERTY
 Box 82

DEPARTMENT OF THE ARMY
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 INCOMING CLASSIFIED MESSAGE

SECRET TOT

Page 2

From: CMCUS Berlin Germany sgd Hays

Nr: CC 3894

16 April 1948

holding gold which is "in such form as to permit it by normal practice to be held as a part of the gold reserves of a central bank" but the origin of which is either unknown or which "at the time of its looting or wrongful removal" according to our records was not "held by respective governments central bank or monetary authority as part of that country's monetary reserve."

3. The most important of such lots presently held by FED consists of 64 gold bars totaling weight of 25,682,530 fine ounces claimed to be property of the firm Dollfus-Mieg, Muehlhausen/Alsace, contained in boxes bearing seals of Sec Banque Suisse, La Roche. 63 of these bars bear Russian mint marking "Mokba" but lack assay certificates and remaining bar is Swiss good delivery bar. This lot of gold is said to have been confiscated by the Germans; French inquired about it in 1945. This gold is not monetary according to the TGC definition and France therefore cannot file claim for it on present TGC questionnaire. It cannot be considered nonmonetary since it does not support attributes prescribed by W 85632 such as unidentifiability as to national and individual origin, heirlessness, loot from victims of Nazi persecution nor does it qualify as nonmonetary as defined in paras 1 and 3 of State Department telegram.

4. Most gold deposited under law 53 will also fail to fall within TGC definition of monetary gold nor will it, on the other hand, represent nonmonetary gold as defined by

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Authority <u>NND 978025</u>	Entry <u>69A4707</u>
By <u>KV</u> NARA Date <u>9/30/99</u>	File <u>Germany: Looted Property</u>
	Box <u>82</u>

DEPARTMENT OF THE ARMY
STAFF MESSAGE CENTER
INCOMING CLASSIFIED MESSAGE

SECRET TOT

Page 3

From: OMGUS Berlin Germany sgd Hays

Nr: CC 3894

16 April 1948

WX 85682 and State Department telegram.

5. We would also like to mention that the TGC definition of monetary gold seems to be in contradiction with the definition apparently used in cables CC 7904 and WX 96654 when in reply to our question: "What disposition is to be made of monetary gold falling under WX 85682?", you answered: "Monetary gold to go entirely to gold pot." (It is not possible for monetary gold as defined TGC to be at the same time Nazi victim loot as defined by WX 85682.) WX 96654, however, is in harmony with Angell's final report on the Paris Conference since he there referred to "non-monetary gold taken by the Nazis from their victims" and apparently used this expression in contrast to monetary gold which he defined as "gold in such form as to be a medium of exchange."

6. Since the TGC in their acceptance and satisfaction of monetary gold claims employ a narrower definition we should employ for shipping monetary gold to the TGC. If you favor our use of the TGC definition for these shipments, we will need your additional guidance as to the classification and final disposition of the category of gold which cannot be classified as monetary gold as defined by TGC nor considered nonmonetary gold. Since the origin of some of this gold has been established, we do not feel free to turn it over to the IRO as nonmonetary gold as indicated in para 1 of State Department telegram.

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By KN NARA Date 9/30/99
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DEPARTMENT OF THE ARMY
STAFF MESSAGE CENTER
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SECRET TOI

Page 4

From: OMGUS Berlin Germany sgd Hays

Nr: CC 3894

16 April 1948

According to WX 85965, WX 99226 and present occupation directive, gold is excluded from restitution.

7. In connection with monetary gold definition we also desire to draw your attention to fact that gold held pursuant to law 53, which is not in monetary form (sheets, wire, et cetera) and which according to our records originated neither from monetary (CFIGC definition) nor non-monetary (CF WX 85682) source, will have to be classified and disposed of. We request your authority to make this gold available to the precious metals control office of the Verwaltung Fuer Wirtschaft (economic administration) for such use in the German economy as deemed appropriate by them, excepting gold which can be shown to have been looted and with respect to which we shall request your instructions as specific cases arise.

End

Note: CC 1701 is CM IN 4397 (23 Sept 47) CAD
CC 3450 is CM IN 1869 (10 Mar 47) CAD
CC 7904 is CM IN 545 (5 Feb 47) JCS

ACTION: CAD

INFO : JCS, ID, OUS, PO, LOGD, BUD

CM IN 4081 (19 Apr 48) DTG 160922Z hhl

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Authority NNM785007
By WSP NARA Date 11/15/57

RG 260
Entry 108
File SILSBEE, LT. COL.
Box 167

Subjects to be Discussed with Lt. Col. Silsbee

GEA FILE

- | | |
|--|---|
| <p>1. Head, Chief, 13
GEA RD&R May
Branch 1948</p> | <p>1. Nationalization of Austrian Enterprises having a German interest.</p> |
|--|---|

The Austrian Government has attempted to nationalize Austrian enterprises, having a German interest, without the payment of adequate compensation therefor which constitutes a dissipation of German assets in Austria. The Austrian Government should be notified that the United States does not recognize nationalization as having been accomplished until adequate compensation has been paid.

2. Does United States policy permit the sale of war potential material to Russian satellite nations?

In connection with the sale of the Ling blast furnaces to Czechoslovakia instructions from Washington indicate that sales to satellite nations will not be permitted.

3. Where is the new directive which is supposed to have resulted from General Balmer's conference in Washington?

This has to do with the 11 specific points upon which General Balmer was briefed.

NDH/hb
B-48133

HAL D. HOUSTON
Head, GEA Branch

1-101

306231

C
O
P
Y

10 November 1947

QUESTIONS FOR GENERAL BALMER

German Property in United States Zone

1. In line with our directive to preserve German assets for reparations, how far can we go in the sale of surplus equipment for conversion to other types of equipment, prevention of deterioration, or the liquidation of firms which are operating at a loss?

Brief: It is good business practice in many cases to dispose of surplus equipment (Hermann Goering blast furnaces) for conversion to other types of equipment. We have many small contracting firms that are operating at a loss, the income from the leasing of what little equipment belongs to the contractor does not pay the cost of administration. It would appear wise to liquidate these firms, proceeds thereof going into blocked bank account. Receipts of liquidation of small firms probably would be in schillings. We should be authorized to take such action as would be taken by normal prudent business men.

See
WARX 90819
20 Nov 47

2. What authority has Law No. 5 of ACC Germany and GEPC Germany over German external assets in Austria?

Brief: The requirement that GEPC transfer title in case of sale as in Question 1 above is not agreed to by the British Element here (Hermann Goering blast furnaces). Apparently no sales as requested under paragraph 1 can be made until authority to transfer title is vested in this Headquarters. GEA Branch lawyers feel that the requirement of GEPC transfer title of machinery, etc., of a corporation in Austria (Hermann Goering, Linz) is out of line. Their opinion is that GEPC has only the right of any other stockholder if GEPC is to have any authority at all. Sale of surplus equipment in the States, for instance, can be handled by the management, the only recourse stockholders might have, if they objected, would be to call a special stockholders meeting. It is quite necessary that the status of the title to the German external assets in Austria be clarified.

German asset
Austria question
now under discussion
at CFM - London.
U.S. position therein
includes the proposition
that GEPC does have
an interest in German
assets in Austria.
Until the asset question
is settled, (on at least
five of present CFM
discussions) that
proposition must be
maintained.

3. Will the Austrian Government, as the new sovereign, succeed to the title to property now vested in the German Government and/or its agencies in Austria?

Brief: An affirmative answer to this question would clarify the status of new post-offices, German Wehrmacht real estate, customs houses, and other similar items of German property. In one instance the Reichs Post Office started an apartment house for its employees. The Austrian Post Office is reluctant to complete this apartment house because of the danger of its being seized as a German external asset. By a long stretch of a favorable interpretation, the Aluminum Works, Braunau, might revert to the Austrian Government, since the parent German company was wholly owned by a German Government corporation (VIAG).

4. Can this Headquarters authorize the Austrian restitution courts to decide the question of restitution of property, at present listed as German, to the former owner?

Brief: Austrian courts claim they do not have jurisdiction over property now listed as belonging to Germans or to the German State in cases where restitution thereof is claimed by former non-aryan owners. They base this on Article 5, iv, of the Control Agreement. While it appears that we might be giving the Austrians the authority to decide just what is or is not a true German asset in Austria, restitution of property in cases where title is now vested in a German is being delayed. Authority to the High Commissioner to permit Austrian courts to at least adjudicate the case, even if final return of the property were suspended, would help to clarify the status of this property. It is believed that it is the intention of all the Western Powers to put restitution ahead of reparations.

5. Request a definition of "Force and duress" to be used in the adjudication of restitution claims presented by other nations.

Brief: Some nations, particularly Czechoslovakia and Yugoslavia, argue that anything that was removed from their country during the German occupation was done by "force and duress". They state

Our understanding is that this is the ultimate intention. However, we will attempt to get more authoritative answer from State Department.

Will take this proposition up with State Department.

submitted for Policy consideration to Sub-committee for Europe for ultimate decision by State - Army - Navy Air Force - Coordinating Committee -

that their national laws could not operate as to border control, export taxes, and other things by virtue of the German population so that the movement of goods out of the country was by "force and duress" (see next question).

6. Request policy statement with respect to claims for the return of goods which left the claimant nation for Austria during the course of ordinary business transaction.

Brief: Austria has done business for many years with its neighbors.

During the war ordinary business deals for machinery were carried on. Czechs are now claiming 4 machines at Steyr Works which were purchased in 1943 from Skoda. Skoda also purchased machines from Steyr but Austria has no recourse for claiming return of these machines. If these machines and others of a similar category were to be returned from Steyr and from other places, some 15,000 workmen would be thrown out of work, and Austrian export of electricity to Germany would be cut one-third.

7. Request permission to return securities which were brought out of another country to Austria for the purposes of safekeeping.

Brief: Hungary National Bank brought all of its safety deposit boxes and records of stocks in its care. Our directive prevents return of security to ex-enemy nations. Hungarian re-organization is being delayed because the stocks are physically here in Austria. It would seem only logical that since we returned the gold to Hungary on the basis that it was not looted but merely brought out for safekeeping, we should apply the same policy to the securities that were brought out for the same purpose.

8. In view of the present trend of US foreign policy, is there a prospective revision of policy and directives with respect to restitution to ex-enemy nations and those allied nations in the Soviet bloc?

9. In the light of peace treaties with ex-enemy nations, do we make restitution to the new claimant or to the former owner?

Submitted for
Policy Consideration
To SCE for ultimate
decision by SANACC

Submitted for Policy
Consideration to SCE
for ultimate decision
by SANACC.

Submitted for
Policy Consideration
to SCE
for ultimate decision by SANACC.

Brief: Case in point is Lippizaner horses which are starving to death.

Yugoslavia has claimed them. We feel that it is up to Italy to fulfill the terms of the peace treaty and not us. Another interesting feature of this is that those Lippizaner horses actually stayed for 15 years at the riding school at Turin and were only moved to lippice (now Yugoslav territory) during the war.

10. Can a cut-off date for the receiving of restitution claims be established?

Brief: If no cut-off date is established and the treaty is longer delayed, this Headquarters will have to stay in the restitution business for a long time. It seems desirable to establish a date after which no restitution claims will be received. It is believed that ACC Germany is contemplating a cut-off date of 1 July 1948. That date or one earlier is agreeable.

11. Can a revised policy be promulgated to cover cases where irreparable damage may be done to Austrian economy by speedy restitution?

Brief: Restitutions have reached the stage where material damage to Austrian economy is imminent if restitutions are continued. The British restitution directive for Allied Nations permits the zone commander to apply the disease and unrest formula. Our directive says restitution must be made without reference to Austrian economy. Up to the present, no restitutions have seriously injured Austrian economy, but if some present claims are allowed, particularly those cases where goods are claimed even though transferred in ordinary business transactions, great damage will be done to Austria (see Questions 5 and 6 above.)

Answered by
WX 91654 (4 Dec)
and WX 90063 (10 Nov)

Submitted for
policy consideration
to SCE for ultimate
decision by SANACE.

Submitted for
Policy consideration
to SCE for ultimate
decision by SANACE.

INTRODUCTION TO THE THIRD PHASE OF OPERATIONS

With the enactment of the Trusteeship Agreement, transferring the administration of German owned properties to the Austrian Government, acting as trustee, and with plans made for the release of all Nazi properties under control to the administration of the Austrian Government, Property Control Branch of the RD&R Division was ready to begin the Third Phase of its operations.

The dominant feature of the Third Phase was the establishing of ground work for the transferring of responsibility to the Austrian Government. International communication systems having been established, Property Control Officers, together with the U. S. Legation, Consular Section, established plans for releasing to their authorized agents or representatives, properties belonging to United Nationals. Pending the completion of legislation covering internal restitution of aryanized properties, the framework was laid under the Austrian Public Administrator's Law and the Registration Law, for the transfer of administrative responsibility over aryanized and dispossessed properties, to the agencies of the Austrian Government.

Changes during the Third Phase of Operations affecting the table of organization were as follows:

On 27 July 1946 Mr. Earl E. Balthazar, U. S. civilian, replaced Mr. Frederic E. Ossorio as administrative assistant to the head of the Branch. On 18 November 1946 Mr. Albert Segat, U. S. civilian, took over the supervision of business enterprises, replacing Mr. John F. Linehan. Mr. Vernon E. Dean, U. S. civilian, replaced Mr. Ouradnik as chief clerk on 14 October 1946 and Mr. George Sweets, U. S. civilian, became file clerk for the Property Control Branch. T/5 Mary Hawkes, then Sgt. Mary Hawkes, left the organization of 17 March 1947 and was replaced by an Austrian male typist. The table of organization at that time and at the present time, including nine Austrian clerks and typists, is as follows:

Mr. Walker M. Treece	Head, Property Control Branch
Mr. D. P. Waring	Deputy to Mr. Treece
Mr. Albert Segat	Business Enterprises
Mr. James M. Dean	Real and Movable Property
Mr. Earl E. Balthazar	Administrative Assistant
Mr. Vernon E. Dean	Chief Clerk
Mrs. Emma E. Moore	Secretary to Mr. Treece
Mr. George Sweets	File Clerk

306236

RG	260 / USACA
Entry	119 Property Control Branch
File	General Correspondence Files
Box	2

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PRESENT PLANS:

Property Control Branch of the RD&R Division is still faced with the problem of continuing supervision over the direct administration of over 2000 properties still held under direct control. With respect to the properties released to the Austrian Government, either as German properties under the Trusteeship Agreement, or for administrative supervision, pending final determination of disposition in other categories, Property Control Branch is undergoing a transition placing it in a supervisory and advisory position over Austrian Government agencies responsible for direct administration of released properties.

With the coming into effect of the Austrian Government's Second and Third Restitution Laws, the Branch will speed up its transition of direct supervision of aryanized, dispossessed properties to the Austrian Government agencies in order that they may implement their laws. In conjunction with these restitution laws, the program for the dissemination of information to Allied claimants concerning status of the laws and procedures to be followed in the formal filing of claims, has been accelerated.

Plans for the disposition of miscellaneous looted properties held under control must be completed, looking toward a release to the Inter-Governmental Committee on Refugees, the Austrian Government, the "Gold Pot" established under the Paris Reparations Act, and to the Jewish Agency for Palestine. During the latter part of April plans were worked out with representatives of the Inter-Governmental Committee on Refugees for the release of the inventory comprising the "Hungarian Loot Train", valued between one and one-half and three million dollars.

Property Control Branch will continuously be responsible for the supervision of Property Control agencies, participation in Headquarters staff actions, in the analysis of operational problems facing administrators, and in the application of broad U. S. policies to Property Control functions, looking toward the protection and preservation of the overall maximum value and worth of the properties under its custody.

306237

38

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HEADQUARTERS
 UNITED STATES FORCES IN AUSTRIA
 APO 777, U. S. Army

~~910~~
 910
 30 October 1945

MILITARY GOVERNMENT INSTRUCTION)

NUMBER 50 (Finance No. 7)

CUSTODY OF AND ACCOUNTING FOR FOREIGN EXCHANGE ASSETS

1. This instruction applied to abandoned, captured, impounded, confiscated, etc. foreign exchange assets which come into the physical possession of Military Government Officers. It does NOT in any way apply to foreign exchange assets in blocked accounts with financial institutions.
2. For accounting purposes, foreign exchange assets will be divided into two categories namely:
 - (a) Treasury and bank notes and coins, including gold coins.
 - (b) Gold, silver, platinum, etc. bullion, stocks, shares, bonds, and other securities.
3. Such foreign exchange assets as come under the jurisdiction of the Property Control Branch, Reparations, Deliveries and Restitutions Division, USACA Section (see Military Government Instruction Number 39) will be reported to and be dealt with by the responsible Land or Vienna Area Command Property Control Officer as prescribed in Military Government Instruction Number 17. Other items (e.g. captured enemy funds, assets confiscated by order of Military Government Courts, etc) will be delivered by the officer receiving them to the Land or Vienna Area Command Military Government Finance Officer.
4. Foreign exchange assets received by Land or Vienna Area Command Property Control or Finance Officers will be delivered as soon as possible by them to the Salzburg Branch of the U. S. Austrian Currency Section, which will account for them as explained below.
5. All officers are reminded that it is essential that FULL particulars as to ownership, origin or source, etc. be recorded when foreign exchange assets are received and that two signed copies of this data must be furnished to the P.C.O. or F.O. when the items are turned over against the latter's receipt.
6. Care must be taken to prepare detailed inventories of all foreign exchange assets immediately upon receipt, noting the kinds of currencies (e.g. Swiss, French, Belgian or Luxemburg Francs, U. S. or Canadian Dollars, etc.), the Serial Numbers of stocks, shares, bonds, etc, and the number of coupons attached thereto, if any.
7. After inventorying, the foreign exchange assets will, wherever practicable be placed in sealed parcels, the contents of which will be certified by two officers (or by one officer and a responsible Austrian bank official where two officers are not available), before being delivered to the P.C.O. or F.O. as prescribed in para 3 above.

R E S T R I C T E D (over)

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RG	2607 USACA	DECLASSIFIED
Entry	119 Property Control Branch	Authority VND 785009
File	General Correspondence Files	By AT NARA Date 11-18-99
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R E S T R I S T E D

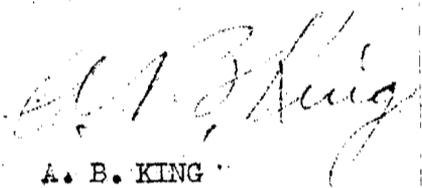
8. When notes or coins (see para 2 (a) above) are received by the Salzburg Branch of the U.S. Austrian Currency Section it will issue a "FOREIGN EXCHANGE" Receipt Voucher (CA/gf3) and will record the various currencies in separate columns of a "Foreign Exchange Assets" Cash Book. At the end of each month, an Abstract of the Cash Book will be forwarded, with duplicates of Receipt Vouchers and any supporting documents, to this Headquarters (Attention: Accounting Branch, Finance Division, USACA Section). The first Abstract will cover the period ending 31 October 1945.

9. When bullion, stocks, etc. (see para 2 (a) above) are received by the Salzburg Branch of the U.S. Austrian Currency Section, it will issue a Safe Custody Receipt and will record particulars of the items in a Safe Custody Register. At the end of each month, duplicates of Safe Custody Receipts, with any supporting document will be sent to this Headquarters (Attention: Accounting Branch, Finance Division, USACA Section).

10. Foreign exchange assets delivered to the Salzburg Branch of the U.S. Austrian Currency Section by Property Control officers will NOT be accompanied by documents giving particulars as to ownership, source, etc., but the Serial Number of the property will be mentioned in the Receipt Voucher for purposes of identification. Items deposited by Finance Officers MUST be accompanied by documents giving the data called for in para 5 above so that the items can be properly classified in the headquarters accounts.

11. No attempt will be made to assign Schilling equivalents to any foreign exchange assets in any of the relative Vouchers or records, i.e. vouchers and records will show Swiss, French, Belgian or Luxembourg Francs, U.S. or Canadian Dollars, grams of fine gold, etc.

BY COMMAND OF GENERAL CLARK:



A. B. KING
Lt Colonel, AGD
Asst Adjutant General



- 2 -

R E S T R I S T E D

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RG	260-7USACA	DECLASSIFIED
Entry	119	Authority VND 785009
File	Property Control Branch	By AT NARA Date 11-18-79
Box	General Correspondence Files	REPRODUCED AT THE NATIONAL ARCHIVES
	9	

HEADQUARTERS VIENNA AREA COMMAND
APO 777 U S ARMY

File 119

FILE: F 31

Date 10 December 1945.

SUBJECT: Impounded Financial Assets

Fill in each column, initial action, and draw a line across the sheet just below initials. Use entire width of sheet for long memorandums.

No.	TO	FROM	MESSAGE
1.	Chief, Finance Property Sub-Sect. Control G-5, VAC Sub-Sect. G-5, VAC		<p>1. Attached is a copy of Military Government Instruction No. 50 (Finance No. 7) which covers part of the problem of impounded financial assets. Please return this copy for our files. We have requested extra copies of which we will forward one to you when they arrive.</p> <p>2. The instruction appears to provide that either the the Property Control or the Finance Officer may accept custody of impounded foreign exchange assets pending delivery to the Salzburg Branch of U.S.A. Austrian Currency Section.</p> <p>3. The procedure with respect to local currency assets was explained to me by telephone by the Chief Accountant USACA as follows: (a) They are first to be accepted as impounded funds and the Finance Officer should be prepared to repay such funds to the owner if such ownership is established by a court order or an order from the military agency which impounded the funds. If the military investigating agency or a recognized court declares the assets to be confiscated they will then be transmitted to the U.S. Austrian Currency Section.</p> <p style="text-align: right;"><i>Vincent A. Catozella</i> VINCENT A. CATOZELLA Major AUS Chief, Finance Sub-Section</p> <p>1 Incl.</p>

306240

RG	260-7 USACA	DECLASSIFIED
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File	General Correspondence Files	By AT NARA Date 11-18-99
Box	9	REPRODUCED AT THE NATIONAL ARCHIVES

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Authority NADEB 100161
By TJ NARA Date 11/19/99

RG 200
Entry Gift Collec Clay
File Jan-Feb-48
Box 11

Return to General CLAY
JAN 29 17 08

C.IGUS CABLE FORM

CALL	CIRCUIT NO NR	PRIORITY	GR	DATE - TIME OF ORIGIN <u>29 Jan. 48</u>
SPACES WITHIN HEAVY LINES FOR SIGNAL ONLY				
FROM:	CLASSIFICATION		REF. NO <u>CC 3027</u>	
ACTION TO: () <u>GINCEUR (PERSONAL FROM CLAY)</u>				
INFO TO:	DEPARTMENT OF ARMY FOR DRAPER		INFO TO: ()	
I <u>HOME</u>				

RESTRICTED

I RETURNED WITH PROPOSED LETTER TO MR HEROD IN REPLY TO HIS OF SIXTEENTH OF DECEMBER BECAUSE OF CERTAIN MODIFICATIONS I FELT DESIRABLE AFTER MY TALK WITH YOU PD PAREN FROM GINCEUR SIGNED CLAY UNPAREN I WOULD APPRECIATE IT IF YOU WOULD WRITE HIM SAYING THAT YOU HAVE HEARD FROM ME ALONG THE FOLLOWING LINES CLN YOU WILL NOTE THAT IN SOME INSTANCES I HAVE PROPOSED ALTERNATIVES TO BE INCORPORATED IN YOUR LETTER TO HIM IF YOU DESIRE PD COMMENTS FOLLOW PD PARA ABE PD WITH RESPECT TO COMMENTS IN MR HEROD'S LETTER CONCERNING QUOTE RESIDENCE OF AGENT UNQUOTE CMA THE REQUIREMENT THAT THE OWNER'S AGENT BE A RESIDENT OF GERMANY DEVELOPS ENTIRELY FROM LACK OF FACILITIES WITHIN GERMANY PD WONEN AND RESIDENCE FOR VISITORS TO GERMANY HAVE HAD TO BE RESTRICTED CMA DUE TO SHORTAGES OF HOUSING AND TRANSPORTATION CMA TO THOSE ENGAGED IN THE IMPORT-EXPORT PROGRAM PD IT WOULD BE IMPOSSIBLE FOR THE ARMY TO AGREE TO PROVIDE FACILITIES FOR NON-RESIDENT AGENTS APPOINTED BY FOREIGN OWNERS CMA PARTICULARLY AS THESE FOREIGN OWNERS MIGHT COME FROM MANY DIFFERENT COUNTRIES PD AS AN ALTERNATIVE CMA YOU MAY SUGGEST CMA IF DESIRED BY MR HEROD'S GROUP CMA THAT

(4 pages)

RESTRICTED

OMGUS INTERNAL DISTRIBUTION O/SS - O/S FINANCE BY Advisor ECON DIV HEAD AGREC	CABLES REFERRED TO IN TEXT OF MESSAGE		COORDINATED WITH:
	REF NO	AGC IN	PRECEDENCE
	_____ IS _____	_____ IS _____	ORIGINATING DIV.: <u>GINCEUR</u>
	_____ IS _____	_____ IS _____	TYPED, NAME, RANK, TELE NO. <u>CLAY, Gen., USAray 12481</u>
			AUTHENTICATING SIGNATURE
			APPROVAL INITIALS

DECLASSIFIED
Authority NND 8010061
By TJ NARA Date 11/19/99

RG 200
Entry Gift Collec. Clby
File Jan-Feb-148
Box 11

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NON-RESIDENT AGENTS COULD BE APPOINTED PROVIDED ARRANGEMENTS ARE MADE FOR THEIR SUBSISTENCE WITHIN GERMANY TO BE THEIR OWN RESPONSIBILITY WITHIN THE GERMAN ECONOMY AND THAT THEY ARE NOT TO BE ENTITLED TO UTILIZATION OF ARMY FACILITIES PD PARA BAKER PD THE LEGAL ADVISORS OF MILITARY GOVERNMENT POINT OUT THAT MILITARY GOVERNMENT TOOK OVER CONTROL BECAUSE OF ABSENTEE OWNERSHIP AS A PROTECTIVE MEASURE AND AS SUCH ARE NOT LIABLE FOR CLAIMS ARISING OUT OF CUSTODY PD IT BELIEVES THAT IT IS ENTITLED TO A RELEASE OF ANY POSSIBLE LIABILITY IN VIEW OF THE FULL PROTECTION IT HAS GIVEN TO SUCH PROPERTY PD MOREOVER CMA THE OWNER IS ENTITLED TO MAKE A COMPLETE AUDIT AND INVENTORY BEFORE ACCEPTING DECONTROL PD AS AN ALTERNATIVE CMA THIS QUESTION OF LIABILITY IS CMA OF COURSE CMA AN ULTIMATE DECISION OF GOVERNMENT AND IF THE DEPARTMENT OF ARMY FEELS THAT THE GOVERNMENT IS FULLY PROTECTED WITHOUT SUCH A RELEASE THEN MILITARY GOVERNMENT WOULD WAIVE THIS REQUIREMENT PD PARA CHARLIE PD ALL PROPERTY IN GERMANY IS SUBJECT TO MILITARY GOVERNMENT CMA CONTROL COUNCIL AND GERMAN LEGISLATION REGARDLESS OF OWNERSHIP AND THUS MILITARY GOVERNMENT LAW NUMBER FIFTY-SIX APPLIES TO ALL PROPERTY WITHIN GERMANY PD IT IS PRESUMABLY A STATEMENT OF CONTINUING POLICY FOR THIS YEAR AND ALL FUTURE YEARS PD HENCE CMA THE APPLICATION OF THIS LAW MAY NOT BE WAIVED BEFORE A PROPERTY IS DECONTROLLED PD OBVIOUSLY CMA THE APPLICATION OF THE LAW TO A SPECIFIC PROPERTY CANNOT BE DETERMINED UNTIL THE STUDY CONTEMPLATED UNDER THE LAW HAS BEEN CONCLUDED PD THUS CMA NO GUARANTEE CAN BE MADE THAT QUOTE DECARTELIZATION UNQUOTE WILL NOT APPLY PD PARA DOG PD IT WOULD APPEAR THAT MR HEROD'S GROUP HAS MISUNDERSTOOD THE MEANING OF THE FINAL DATE NOW EXTENDED TO THIRTY-ONE MARCH NINETEEN HUNDRED FORTY-EIGHT AT WHICH TIME ADMINISTRATION AND CONTROL OF PROPERTY IS TO BE TURNED OVER TO GERMAN AGENCIES PD THIS DOES NOT MEAN THAT THE OWNER IS REQUIRED TO TAKE OVER CONTROL OF HIS PROPERTY BY THAT DATE AS IT STILL WILL BE PRESERVED AND PROTECTED UNDER MILITARY GOVERNMENT LAW NUMBER FIFTY-TWO PD IT DOES MEAN CMA HOWEVER CMA THAT THE FULL RESPONSIBILITY WILL BE TURNED OVER TO GERMAN GOVERNMENT AGENCIES

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Entry Gift Collec. Clby
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Box 11

RESTRICTED

-3-

UNDER A VERY GENERAL SUPERVISION AND THAT FUTURE CORRESPONDENCE WILL BE DIRECTED TO THESE GERMAN AGENCIES PD OWNERS WILL STILL HAVE THE SAME RIGHTS AS THEY PREVIOUSLY HAD PD HOWEVER CMA MILITARY GOVERNMENT CAN NO LONGER OBTAIN PERSONNEL TO CONTINUE TO EXERCISE THE RESPONSIBILITY BEING TURNED OVER TO THE GERMANS PD PARA EAST MILITARY GOVERNMENT IS UNABLE TO COMMENT ON THE RECOMMENDATIONS WITH RESPECT TO THE STATUS OF THIS PROPERTY UNDER THE GOVERNMENT'S POLICY COVERING EXTERNAL ASSETS PD THIS APPEARS TO BE A MATTER OF STATE DEPARTMENT POLICY TO WHICH ONLY THE STATE DEPARTMENT CAN REPLY PD PARA FOX PD THE USE OF REICHSMARKS AND FOREIGN CURRENCY BALANCES IS STILL RESTRICTED TO NORMAL CONDUCT OF BUSINESS AND PRECLUDES INVESTMENTS OF FUNDS IN REAL ESTATE CMA BUSINESS ENTERPRISES OR OTHER TYPES OF CAPITAL INVESTMENTS PD THIS RESULTS FROM THE FOREIGN INVESTMENT MORATORIUM POLICY IMPOSED BY AMERICAN AND BRITISH GOVERNMENTS PD THIS IN TURN COMES SOMEWHAT FROM OUR OPPOSITION TO THE SOVIET ACQUISITION OF LARGE HOLDINGS IN EASTERN GERMANY PD OBVIOUSLY CMA THE UTILIZATION OF SUCH FUNDS AND THE INVESTMENT OF ADDITIONAL AMERICAN CAPITAL WITHIN GERMANY MUST BE PERMITTED AT SOME TIME PD HOWEVER CMA IN OUR OPINION CMA THIS IS STILL NOT TIMELY PD PARA GEORGE PD MILITARY GOVERNMENT IS PREPARED TO PERMIT FOREIGN OWNED COMPANIES IN GERMANY TO SELL FOR REICHSMARKS GERMAN SECURITIES WHICH IT MAY OWN EXCEPT TO ANOTHER FOREIGN INTEREST PD HOWEVER CMA WE HERE ARE NOT IN A POSITION TO AUTHORIZE TRANSACTIONS WITH RESPECT TO FOREIGN SECURITIES OWNED AND DEPOSITED BY FOREIGN OWNED COMPANIES IN GERMANY AS THIS REQUIRES A GOVERNMENTAL DECISION REGARDING THEIR STATUS AS GERMAN EXTERNAL ASSETS PD THUS CMA WE WOULD BE UNABLE TO LICENSE THE SALE OF DUTCH SECURITIES REFERRED TO BY MR HEROD REGARDLESS OF THE MANNER OF SALE UNTIL THIS QUESTION HAS BEEN RESOLVED PD PARA HOW PD WE RECOGNIZE THE DESIRABILITY OF PERMITTING NEW BUSINESS INVESTMENTS IN GERMANY BY FOREIGN INTERESTS BUT FEEL THAT THIS MUST AWAIT A FINAL DECISION AS TO THE FUTURE OF GERMANY AND THE STATUS OF THE SOVIET-ACQUIRED HOLDINGS IN EASTERN GERMANY IN RELATIONSHIP TO THAT FUTURE PD PARA ITEM PD NO SPECIAL TAX HAS BEEN AUTHORIZED IN GERMANY TO MEET LOSSES DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO

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306243

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Authority NND 80 100161By TJ NARA Date 11/19/99

RG

200

Entry

Gift Collec Clay

File

Jan-Feb-148

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11CIGUS CABLE ~~EC RM~~ RESTRICTED

THE WAR CMA ALTHOUGH CONSIDERABLE THOUGHT HAS BEEN GIVEN TO SOME SUCH MEASURE IN CONNECTION WITH CURRENCY REFORM STUDIES PD HOWEVER CMA IT WOULD APPEAR DEFINITE THAT NO GUARANTEE CAN BE MADE THAT FOREIGN-OWNED PROPERTY WOULD NOT BE SUBJECT TO SUCH A TAX IF IN FACT IT SHOULD BE LEVIED BY MILITARY GOVERNMENT OR BY A FUTURE GERMAN GOVERNMENT PD I WOULD DOUBT IF A GERMAN PEACE TREATY WOULD GIVE FOREIGN OWNED BUSINESSES LOCATED WITHIN GERMANY A PREFERENTIAL POSITION AS COMPARED WITH GERMAN OWNED BUSINESSES PD PARA I SUGGEST FURTHER THAT MR HEROD BE REMINDED THAT MILITARY GOVERNMENT ASSUMED CUSTODY OF FOREIGN OWNED PROPERTY TO PROTECT IT AT A TIME WHEN THERE WAS NO GOVERNMENTAL AGENCY IN GERMANY AND IT WAS IMPOSSIBLE FOR THE OWNER TO PROTECT HIS OWN PROPERTY PD NOW THAT THIS IS NO LONGER NECESSARY CMA MILITARY GOVERNMENT SHOULD NOT BE EXPECTED TO CONTINUE AS CUSTODIAN AS IT IS POSSIBLE FOR THE REAL OWNER TO PLACE THE CUSTODY OF HIS PROPERTY IN THE HANDS OF COMPETENT GERMAN AUTHORITIES OF HIS OWN SELECTION WHO WOULD BE UNDER GENERAL SUPERVISION OF MILITARY GOVERNMENT PD WE BELIEVE THAT THE DATE NOW ESTABLISHED OF THIRTY-ONE MARCH IS THE FINAL DATE IN WHICH WE WILL HAVE ADEQUATE PERSONNEL AVAILABLE TO CONTINUE AS AT PRESENT CMA ALTHOUGH OF COURSE WE WILL MAKE EVERY EFFORT TO SECURE COMPETENT GERMAN PERSONNEL IN THE EVENT OWNERS ARE UNWILLING TO MAKE SELECTION AND WE WILL CONTINUE GENERAL SUPERVISION TO INSURE THE CONTINUATION OF REASONABLE PROTECTION PD PARA I WOULD APPRECIATE IT IF YOU WOULD INCORPORATE IN SUBSTANCE THE ABOVE IN A LETTER TO MR HEROD USING SUCH ALTERNATIVES AS YOU DEEM DESIRABLE AND ADVISING US OF THE ALTERNATIVES YOU HAVE USED PD SINCE IT IS UNDOUBTEDLY BETTER THAT WE ASSUME FULL RESPONSIBILITY FOR THE LETTER HERE CMA IT IS SUGGESTED THAT YOU ADVISE MR HEROD THAT YOU ARE REPLYING TO HIS LETTER AT MY REQUEST AND INCORPORATING THEREIN THE COMMENTS WHICH I HAVE SUBMITTED TO YOU BY RADIO PD

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306244

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 Authority NND 00 100161
 By TJ NARA Date 11/19/99

RG 200
 Entry Gift Center Clay
 File Jan-Feb 1948
 Box 11

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)



AG CABLES



INCOMING MESSAGE

TOO 052053Z

~~SECRET~~

RECD 060119Z Feb 48
 CN-35/05/cjw

ROUTINE

~~EYES ONLY~~

mm

FROM : DEPT OF THE ARMY FROM DRAPER
 TO : CINCEUR PERSONAL FOR CLAY
 REF ID : W-95402

REGRADED UNCLASSIFIED
 ORDER SEC ARMY BY TAG PER 720485

Reurads CC-3050 Jan, and CC-4908 Oct 46.

1. Entertain serious doubts advisability following course outlined urad.
2. Paintings have been subj to considerable press comment and have been subj to considerable controversy in Art World. If they are returned to Germany without prior exhibition Washington anticipate renewal campaign of criticism. Bearing on this is fact that expense of transportation and maintenance while in National Gallery has been met out of appropriated funds.
3. Last year when question arose regarding possible public exhibition here decision made by State and Army that they would not be exhibited until date fixed for their return in order to avoid any possible imputation improper motives. Neither State nor National Gallery has been consulted reference your message but believe they may object to return without prior exhibition here except for over riding considerations.
4. During discussion with State regarding paintings some time ago it was informally indicated that State Discounted possible effect on Soviet susceptibilities if they were returned to Germany but not Berlin. Since your message states that they would be exhibited either Munich or Wiesbaden it is assumed that you now take similar attitude although in urad CC-4908 you indicated belief they should be placed on exhibition here "until a responsible German Govt has been formed."
5. Unlikely that paintings could be removed from

AGC IN 84097

EYES ONLY

~~SECRET~~

Copy No. 1

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Authority NND 801011
By TJ NARA Date 11/19/99

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Entry Gift Collector Clay
File Jan-Feb 1948
Box 11

REF ID: A-95402

6 Feb 48

6 Feb 48

6 Feb 48

Revised 6-95402. At time I recommended against
return of pictures because return other than to Berlin
would offend Soviet we had not reached present
position in which far more important actions have been
taken against Soviet protest. Hence, to my mind,
this represents no longer a valid objection to return.
For almost three years, I have tried to get paintings
exhibited at home without success and it seems
very late to do so now. Repair of excellent
museums at Wiesbaden and Munich makes so far
keeping possible now and return would mean
a great deal psychologically to German people
being propagandized ~~to~~ heavily to believe that
we are exploring Germany. For above reasons, I
believe it timely to return paintings now. In
any event, if pictures are to be exhibited, this
should be done now with an early date for their
return announced simultaneously. I assure
you the effect in western Germany would be
worth a great deal.

SECRET

6 Feb 48

1. Eventually it will be necessary to discuss with White House in view of original press release which emanated from there 26 Sept 45.
2. Request your comments.
3. For these reasons believe most desirable course to publicly announce date for return and place pictures on exhibition for short period prior to shipment.
4. National Gallery and shipped to Germany in complete secrecy. Plans to press inevitable if attempted. Further if pictures damaged or lost in shipment made secretly, publicity consequences would be most undesirable.

REF ID: A-95402

SECRET

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Authority NND 60 60 161
By TJ NARA Date 11/19/99

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Entry Gift Collect Clay
File Jan-Feb 1948
Box 11

Return to General CLAY
FEB 6 1948

OMGUS CABLE FORM

CALL	CIRCUIT NO NR	PRIORITY	GR	DATE-TIME OF ORIGIN
				<u>6 Feb 48</u>
SPACES WITHIN HEAVY LINES FOR SIGNAL ONLY				
FROM:	CLASSIFICATION			REF. NO
ACTION TO:				<u>3127</u>
<u>CINCIBUR PERSONAL FROM CLAY</u>				
INFO TO:	DEPT OF THE ARMY PERSONAL FOUNDOING: ()			()
	()			()
	()			()

REGRADED UNCLASSIFIED
ORDER SEC ARMY BY TAG PER 720485

~~CONFIDENTIAL~~
CONFIDENTIAL

MEMORANDUM WILLIAM HAY NINE FIVE FOUR TWO SIX ONE I BELIEVE THAT IMPLIED COMMITMENTS TO JEWISH RESTITUTION COMMISSION WOULD MAKE THE GOVERNMENT'S POSITION MOST DIFFICULT TO EXPLAIN IF NOT USTAINABLE PD PAREN FROM CINCIBUR SIGNED CLAY UNPAREN IT WAS OUR UNDERSTANDING THAT GENERAL HILLERING HAD ALMOST TWO YEARS AGO ACCEPTED THAT AN INTERNATIONAL JEWISH RESTITUTION COMMISSION WOULD BE THE SUCCESSOR ORGANIZATION TO RECLAIM JEWISH PROPERTY IN GERMANY ONE AND IN SEVERAL CONVERSATIONS WHICH I HAVE HAD WITH JEWISH REPRESENTATIVES HEADED BY JUDAS FRANKAUER I HAVE ALWAYS LET THEM UNDERSTAND THAT A JEWISH RESTITUTION COMMISSION WOULD BE THE SUCCESSOR ORGANIZATION PD THE COMPOSITION OF THIS COMMISSION WAS TO BE DETERMINED BY THE STATE DEPARTMENT PD LATER IN SEEKING QUADRIPARTITE AGREEMENT ONE THE QUESTION WAS RAISED ON SEVERAL OCCASIONS PD WHILE THIS QUESTION DID NOT EFFECT QUADRIPARTITE AGREEMENT ONE HE WOULD HAVE BEEN ABLE ~~TO OBTAIN~~ TO OBTAIN TRIPARTITE AGREEMENT TO A NON-DENOMINATIONAL SUCCESSOR ORGANIZATION AND PARTITE AGREEMENT WITH THE BRITISH TO A GERMAN ORGANIZATION AS SUCCESSOR ORGANIZATION PD/OUR DECISION TO PUBLISH A UNILATERAL LAW WAS PRIMARILY

(2 pages)

~~CONFIDENTIAL~~

OMGUS INTERNAL C/SS DISTRIBUTION LEGAL CONT OFF FIN ECON CA HIO POL AFF	CABLES REFERRED TO IN TEXT OF MESSAGE REF NO AGC IN IS <u>62-95426</u> <u>64110</u> IS LEGIS D IS IS	COORDINATED WITH: PRECEDENCE: ORIGINATING DIV.: CINCIBUR TYPED NAME, RANK, TITLE NO. AUTHENTICATING SIGNATURE	APPROVAL INITIALS

DECLASSIFIED

Authority NND 80 100141By TJ NARA Date 11/14/99RG 200
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File Jan-Feb 1948
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BASED ON THE DESIGNATION OF A SUCCESSOR ORGANIZATION TO HEIRLESS JEWISH PROPERTY AS AN INTERNATIONAL JEWISH RESTITUTION COMMISSION PD IN POINT OF FACT IT WAS OUR UNDERSTANDING THAT OUR GOVERNMENT WAS UNWILLING FOR US TO ENTER INTO ANY OTHER AGREEMENT PD OBVIOUSLY CMA THE JEWISH REPRESENTATIVES IN THE UNITED STATES WERE FAMILIAR WITH THESE NEGOTIATIONS AND CLEARLY UNDERSTOOD THAT THE SUCCESSOR ORGANIZATION WAS TO BE A JEWISH RESTITUTION COMMISSION PD I DO NOT KNOW WHETHER OR NOT JUDGE PROSKAUER AND HIS ASSOCIATES HAVE ANY COMMITMENTS IN WRITING BUT I AM QUITE SURE THAT THEY WERE GIVEN CLEARLY TO UNDERSTAND BY ALL RESPONSIBLE GOVERNMENT OFFICIALS WITH WHOM THEY DISCUSSED THE PROPOSED RESTITUTION LAW OVER THE PAST TWO YEARS THAT THE SUCCESSOR ORGANIZATION WOULD BE A REPRESENTATIVE JEWISH COMMISSION PD I KNOW THAT IN MY OWN CASE I HAVE ALWAYS TALKED TO THE JEWISH REPRESENTATIVES ON THIS ASSUMPTION WHICH WAS CERTAINLY NOT MY OWN ASSUMPTION BUT BASED ON MY CONVERSATIONS AND DISCUSSIONS WITH RESPONSIBLE OFFICIALS IN BOTH STATE AND ARMY DEPARTMENTS PD IN POINT OF FACT CMA MY ORIGINAL VIEWS WERE OPPOSED IN FAVOR OF A GERMAN CORPORATION PD PARA, REGARDLESS OF THESE ORIGINAL VIEWS CMA I AM SURE THAT AT MINIMUM WE WOULD BE BREAKING AN IMPLIED AGREEMENT IF WE DID NOT DESIGNATE A REPRESENTATIVE JEWISH COMMISSION AS SUCCESSOR ORGANIZATION PD PARA I WOULD LIKE TO POINT OUT THAT EARLY DECISION IS IMPERATIVE AS CLAIMS UNDER THE LAW MUST BE FILED BY THE END OF THE PRESENT CALENDAR YEAR PD BY THE TIME SUCH A COMMISSION IS FORMED CMA THE REMAINING TIME IN WHICH TO FILE CLAIMS WILL BE QUITE LIMITED PD

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306248

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Authority NND 80100161
By TJ NARA Date 11/19/99

RG 200
Entry Gift Center Copy
File Jan-Feb 1948
Box 11

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)



AG CABLES

INCOMING MESSAGE



TOO 052329Z

C O N F I D E N T I A L

RECD 060337Z Feb 48
CN-06/06 cjr

P R I O R I T Y

FROM : DEPT OF THE ARMY FROM CSCAD FROM NOCE
TO : CINCEUR PERSONAL
INFO : EUCOM
REF NO : WX-95426 CITE: PG

Reurad Jan CC-3048.

1. It was understood that on your recent visit you personally discussed this matter with Mr Wisner of State and you knew that question of appropriate successor orgn not yet resolved.
2. Army has formally expressed view to State that:
 - A. Jewish Restitution Commission, or any other Corporation or Association outside of Germany, should not be appointed as successor orgn to heirless Jewish property in Germany.
 - B. Any orgn seeking appointment as successor orgn to heirless property in Germany under Law no. 59 should be German orgn.
3. Your comments requested on whether commitments to Jewish Restitution Commission or any other external orgn have been made which would make Army's pos untenable. These comments needed to assist expediting final decision with State.

CC-3048. 31 Jan 48 LEGAL

ACTION : S/G

CHANGE OF ACTION: LEGAL
(6 Feb 48)

ADDED DISTRIBUTION:
(6 Feb 48)

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Form OMGUS-252
(29 May 47)

AGV LM 84110 6 Feb 48 WLC/cjr REF NO: WX-95426 Copy No.
Exempt from paraphrase Handle in compliance with AR 380-5.

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 Authority NND 6010161
 By TJ NARA Date 11/19/99

RG 200
 Entry Gift Collec. Clay
 File Mar-Apr 1948
 Box 12

OMGUS CABLE FORM

CALL	CIRCUIT NO NR	PRIORITY	GR	DATE-TIME OF ORIGIN <u>17 Mar 1748</u>
SPACES WITHIN HEAVY LINES FOR SIGNAL ONLY				
FROM: CINCEUR PERSONAL FROM CLAY		CLASSIFICATION		REF. NO <u>CC-3539</u>
ACTION TO: () DEPT OF ARMY PERSONAL () FOR DRAPER EYES ONLY		EYES ONLY		
INFO TO: () NONE				
		INFO TO: ()		EYES ONLY

~~TOP SECRET~~ **TOP SECRET**

W-97603

REURAD WILLIAM NINE SEVEN SIX ZERO THREE PD PAREN FROM CINCEUR
SIGNED CLAY UNPAREN PAREN ONE UNPAREN WILL BE ABLE DELAY FOR FEW DAYS
 ON RELEASE JUGOSLAV SILVER WITHOUT DISCLOSING REASONS PD PAREN TWO
 UNPAREN WHEN SILVER WAS FIRST INVENTORIED AT FOX EASY DOG CMA INDICATION
 WAS THAT ONE SEVEN TWO BARS IN QUESTION ORIGINATED FROM BOR MINES IN
 JUGOSLAVIA PD UPON REQUEST CMA JUGOSLAV RESTITUTION MISSION THEN
 SUBMITTED CLAIMS GIVING FULL DETAILS AS TO WEIGHT CMA BAR NUMBERS CMA
 AND DIMENSIONS OF BOR STAMPING CMA WHICH COVERED POSITIVE IDENTIFICATION
 ONE SIX FOUR BARS PD ADDITIONAL SIX BARS IDENTIFIED BY ALLOY CERTIFICATES
 OF SERBIAN NATIONAL BANK PD REMAINING TWO SMALL BARS OF SIX AND TWELVE
 OUNCES RESPECTIVELY IDENTIFIED AS PART OF SAME SHIPMENT OF ONE SEVEN TWO
 BARS WHICH WAS FIRST DISPATCHED TO VIENNA ON THREE ONE OCTOBER FORTY
 FOUR BY STABINTENDANT LEISEGANG CMA A GERMAN ARMY OFFICIAL CMA AND IN
 FEBRUARY FORTY FIVE WAS SHIPPED TO REICHBANK BERLIN WHERE BARS WERE
 CREDITED TO CHEFINTENDANT PAREN CHIEF FINANCIAL OFFICER UNPAREN OF
 GERMAN ARMY IN SOUTHERN EUROPE PD INITIAL ENTRY IN VAULT RECORDS BERLIN

→ orig is in AG safe

(PAGE ONE OF TWO PAGES)

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EYES ONLY	TOP SECRET TOP SECRET	TYPED, NAME, RANK, TELE NO <u>LUCIUS D. CLAY, Gen. USA</u> AUTHENTICATING SIGNATURE
		APPROVAL INITIALS

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By TJ NARA Date 11/19/99

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REFLECTS GROUPING OF ONE SIX FOUR NORMAL BARS PLUS SIX LARGE AND TWO SMALL BARS PD ON BASIS THIS DATA ENTIRE LOT OF ONE SEVEN TWO BARS WAS FOUND RESTITUTABLE TO JUGOSLAVIA BY ECONOMICS AND FINANCE DIVISIONS CMA THIS HEADQUARTERS PD PAREN THREE UNPAREN /EIGHTEEN MARCH ONLY SIGNIFICANT BECAUSE IN ORGANIZING SHIPMENT JUGOSLAV MISSION SET UP THAT DATE WHEN ARRANGING SHIPPING AND SECURITY DETAILS HERE AND IN JUGOSLAVIA AND PLANNING RECEPTION IN BELGRADE PD SHIPPING FACILITIES ARE PRESENTLY AVAILABLE AND SILVER IS READY TO BE LOADED PD PAREN FOUR UNPAREN WOULD SUGGEST THAT NEW STATE DEPT POLICY REFERRED TO PROVIDE A SINGLE FIRM DIRECTIVE FOR US COVERING ALL ESSENTIALS OF UNCLE SUGAR RESTITUTION POLICIES PAREN INCLUDING RELATIONS WITH SOVIET AND ITS ALLIED AND EX-ENEMY SATELLITES CMA TREATY NATIONS CMA AND AUSTRIA AND ALBANIA UNPAREN AND GIVING US DISCRETION IN APPLYING THESE BROAD PRINCIPLES TO INDIVIDUAL CLAIMS PD WITH SUCH A DIRECTIVE WE CAN WORK OUT DETAILS HERE PD PAREN FIVE UNPAREN AS OF TWO NINE FEBRUARY WE HAD SIX THREE FOUR NINE ACTIVE NON-CULTURAL CLAIMS CMA MANY OF THEM VERY VOLUMINOUS CMA WHICH WERE DIVIDED AS FOLLOWS CLN AUSTRIA ONE THREE FOUR CMA BELGIUM FOUR ZERO ONE CMA CZECHOSLOVAKIA ONE FOUR ONE ZERO CMA DENMARK ONE CMA FRANCE TWO ONE EIGHT NINE CMA GREECE THIRTEEN CMA HUNGARY SIX EIGHT ONE CMA ITALY FOUR ONE SIX CMA LUXEMBOURG FORTY CMA NETHERLANDS ONE ZERO FOUR CMA NORWAY FORTY-FOUR CMA POLAND FOUR NINE ONE CMA ROUMANIA FORTY-TWO CMA SOVIET ONE FIVE ONE CMA YUGOSLAVIA TWO THREE TWO PD IT WOULD BE HIGHLY IMPRACTICAL TO ATTEMPT TO SUBMIT TO WASHINGTON EACH CLAIM FOR RESTITUTION TO SOVIET OR THEIR SATELLITES WITH FULL DETAILS FOR DECISION PD

(PAGE TWO)

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Authority NND 8010161
By TJ NARA Date 11/19/99RG 200
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File Mar-Apr 1948
Box 12

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

AG CABLES



INCOMING MESSAGE

~~TOP~~ SECRET

TOO: 142119Z

~~TOP SECRET~~RECD: 130215Z Apr 48
CN-03/15/gdP R I O R I T Y

FROM : DEPT OF THE ARMY FROM CSGPO

TO : CINCEUR, USFA

REF NO : WX-99584

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Consideration being given to dispatch of protest to Soviet Union re situation Berlin and Vienna. Note would be on Govt to Govt level and dispatched only after receiving assurances from British and French of similar though not identical notes on their part. Specific issues have been avoided in draft of proposed text on the basis that:

(A) It is not desired to enter legalistic argument in which our position is somewhat weakened by lack of specific signed agreements and

(B) Protest over specific issues might have effect of developing crisis out of present impasse. It is further felt that the general nature of presently proposed note would not preclude later follow up of more specific nature.

Desired are your comments on the draft text; your recommendations as to the timing of dispatch of note; and your specific recommendation, in light of above discussion, as to advisability of raising the passenger train issue in this note.

Draft text of proposed note follows:

"In the light of recent developments in Berlin the US Govt considers it necessary to make unmistakably clear to the Soviet Govt its position in this matter. The rights of the US as a joint occupying power derive from the international agreements undertaken by the Govts of the US, UK, France and Soviet Russia defining the Zones in Germany and Sectors in Berlin which are now occupied by these Powers and establishing the joint

AGC IN 1349

~~TOP~~ SECRET

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By TJ NARA Date 11/14/99RG 200
Entry Gift Center Clay
File Mar-Apr 1948
Box 12T O P S E C R E T
-2-

REF NO: WX-99584

control of Germany and Berlin. In observance of these agreements and in the expectation that they would continue to be observed by the other signatories, the US withdrew its forces from Thuringia and Saxony in 1945.

"It clearly results from these undertakings that Berlin is not a part of the Soviet Zone but is an international zone of occupation and the seat of joint control of Germany. Understandings in good faith engaged in by the Zone Commanders and subsequently developed in the Allied Control Authority, as well as practices sanctioned by usage, guarantee the US, together with the other Powers, free access to Berlin for the purpose of fulfilling its responsibilities in Germany. The US Mil Commander in Germany has been given strict orders to continue to participate in the joint occupation of Berlin and to take all appropriate action necessary for that purpose.

"The foregoing considerations apply with equal force to the positions of the US in Vienna.

"The US Govt expects that the Soviet Govt will not authorize or permit actions on the part of its Mil Commanders inconsistent with the unquestioned rights which the US Govt is fully determined to maintain."

ACTION : S/G

INFO : G/S

AGC IN 1349

15 Apr 48

GEh/gd

REF NO: WX-99584

T O P S E C R E T

306253

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Authority NND 0010141 RG 200
By TJ NARA Date 11/19/99 Entry Gift Collec Clay
File Sept-Oct 148
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Return to General CLAY

OMGUS CABLE FORM

CALL	CIRCUIT NO NR	PRIORITY	GR	DATE-TIME OF ORIGIN
SPACES WITHIN HEAVY LINES FOR SIGNAL ONLY				ORT 26 1822
FROM: CINCDEF PERSONAL FROM CLAY		CLASSIFICATION SECRET SECRET		REF. NO LC 6484
ACTION TO: () DEPT OF ARMY PERSONAL () FOR UNDER SECRETARY DRAPER ()		INFO TO: ()		
INFO TO: () NONE ()		()		

~~SECRET~~

THE SUBSTANCE OF A MESSAGE FROM EASY CHARLIE ABLE TO COLLISSON INDICATES LATTER TO BE MAKING SEPARATE RECOMMENDATIONS TO EASY CHARLIE ABLE RELATIVE TO OUR USE OF COUNTERPART FUNDS WITHOUT HAVING DISCUSSED HIS VIEWS WITH US PD PAREN PERSONAL FROM CLAY PERSONAL FOR DRAPER UNPAREN THIS WOULD NOT SEEM TO ME TO BE IN ACCORD WITH THE SPIRIT OF THE AGREEMENT UNDER WHICH COLLISSON CAME TO GERMANY AS HARRISMAN'S DEPUTY WHICH ENVISAGED THAT DIFFERENCES IN POLICY THINKING WOULD BE ironed OUT HERE BETWEEN HARRISMAN AND MYSELF CMA IF NECESSARY PD IF PRESENT SITUATION CONTINUES CMA IT IS CERTAIN TO LEAD TO FRICTION AND MISUNDERSTANDING PD PARA THIS CABLEGRAM ALSO STATES THAT AN INTER-DEPARTMENTAL MEETING IS STUDYING QUESTION AND CMA APPARENTLY REPLYING TO AN INQUIRY FROM COLLISSON CMA STATES THAT COUNTERPART FUNDS FOR GEORGE ABLE ROGER ITEM OBOE ABLE EXPEND FUNDS WILL BE SUBJECT TO SAME POLICY GOVERNING EASY CHARLIE ABLE COUNTERPART FUNDS PD PARA I BELIEVE THIS TO BE A MISTAKE PD HERETOFORE CMA THE RESPONSIBILITY FOR USING GEORGE ABLE ROGER ITEM OBOE ABLE COUNTERPART FUNDS HAS RESTED WITH US AND CMA IN FACT CMA THE ESTABLISHMENT OF SUCH COUNTERPART FUNDS RESULTED FROM OUR ACTION HERE PD WE DO KEEP A CLOSE CONTROL OVER USE OF THESE FUNDS PD WE ARE USING A PART OF THESE FUNDS AT THE MOMENT TO

(2 pages)

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Form OMGUS - 325 (21 Aug 47)

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Authority NNDED 100161By TJ NARA Date 11/19/99RG 200Entry Gift Collec. ClbyFile Sept-Oct 1948Box 13

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- 2 -

FINANCE BERLIN PD HOWEVER CMA I WOULD LIKE TO POINT OUT THAT IN THEORY THESE COUNTERPART FUNDS ARE NOT ACTUALLY OWNED BY US SINCE ALL EXPENDITURES OF UNCLE SUGAR FUNDS ARE CHARGED AGAINST A FUTURE GERMAN GOVERNMENT AND WILL HAVE EQUAL PRIORITY STATUS WITH ALL OTHER CLAIMS PD IF IN FACT WE SHOULD EXERCISE UNDUE CONTROL OVER COUNTERPART FUNDS CMA I WOULD DOUBT THE VALIDITY OF OUR CONTENTION THAT THE CORRESPONDING UNCLE SUGAR FUNDS WOULD HAVE SUCH PRIORITY PD PARA THIS ALSO APPLIES TO EASY CHARLIE ABLE FUNDS AS THE EASY CHARLIE ABLE FUNDS MADE AVAILABLE TO GERMANY ARE A LOAN AND NOT A GRANT PD AS YOU KNOW CMA COUNTERPART FUNDS ELSEWHERE RESULT ONLY FROM GRANTS AND ARE NOT REQUIRED AGAINST LOANS PD FOR THESE REASONS CMA THE USE OF COUNTERPART FUNDS IN GERMANY SHOULD BE GOVERNED BY DIFFERENT AND BROADER PRINCIPLES THAN THEIR USE IN OTHER COUNTRIES PD PARA I DID DISCUSS UTILIZATION OF EASY CHARLIE ABLE COUNTERPART FUNDS IN OPERATIONS OF RECONSTRUCTION FINANCE CORPORATION WITH HOFFMAN PD OF COURSE CMA I ASKED HIM FOR NO COMMITMENT ALTHOUGH I BELIEVE HIM TO BE SYMPATHETIC TO OUR PROPOSAL PD

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306255

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 Authority NND 801001 RG 200
 By TJ NARA Date 11/19/99 Entry Gift Collec. Clby
 File Sept-Oct 1948
 Box 13

FRANKFURT MILITARY POST
 STAFF MESSAGE CONTROL
 INCOMING MESSAGE

UEP ~~SECRET~~ FMP 21/280
 TOO 272117Z PRIORITY TOR 282100Z

FROM : HQ DEPT OF THE ARMY FROM OAS SGD WEST
 TO FOR ACTION : OMGUS
 REF NO : W-91542 27 OCT 48

Request your views on extension of Bizonal fusion agreement as amended which expires Dec 31 and in regard to which discussions with British will have to take place within the near future. It is our feeling that for the present the discussions should not involve any material changes in the terms of the agreement and that it would be advisable to extend the present agreement for say three months or six months without substantial change in the terms. State Dept feels that 6 months extension would be the better arrangement. Mr VORHEES is inclined to think that a 3 months extension would be preferable. Will the trade fusion agreement with the French Zone have any influence on the extension of the Bizonal fusion agreement? Are there any changes in terms which you consider essential or desirable?

~~RELAYED BY OMGUS DTG 281853Z TO BICO FOR ACTION~~ *eds*

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 SMC IN 3336 28 OCT 48 2228Z HR/of REF NO: W-91542

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THIS MESSAGE MAY BE HANDLED AS CORRESPONDENCE OF LIKE CLASSIFICATION WITHOUT PARAPHRASE 5 per par 51 i and 69a (4) AR 380-5

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 Authority NND 100101
 By TJ NARA Date 11/19/99

RG 200
 Entry Gift Collec Clay
 File OMGUS Cables 11/48
 Box 13

11382

TELEGRAM RECEIVED

*Mr. Sawsett
 Please see
 me
 VM*

From: **PARIS**

Date: **November 3, 1948 2 pm**

Code:

Received: **680**

November 3, 8:25 pm

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Action: **Mr. Gantenbein**
 Info:

SM

For OFD from Therp.

A. When moratorium discussed by intergovernmental group Benelux representatives expressed general satisfaction with October 11 proposal bipartite board, transmitted Washington by TT 1441 October 17. Objected however to B (2) as discriminatory because thought this provision, which correctly begins "it is not the intent" and absolute prohibition on sale existing foreign interests to other non-Germans. Netherlands representative stressed his nationals might wish to transfer existing interests in Germany between themselves for guilders. B (3) was also questioned because give no indication of what would be regarded as an undue increase in foreign ownership.

B. Informal conference with UK delegation indicates it will support quite strongly a draft recommendation worked out by it with Benelux which attempts to cover above problems as follows:

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1. General paragraph recommending lifting moratorium on existing interests as soon as possible.

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 Authority NND 6010161
 By TJ NARA Date 11/14/99

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2. Recommend modification of B (2) so that (1) UN nationals resident in any particular monetary area outside Germany may freely dispose of their property to other residents of same area and (2) transaction between UN nationals in different monetary areas may be permitted under special license. (British say this differentiation designed to avoid increasing ultimate drain on Germany for repatriation of earnings to hard currency areas.)

3. Interested country should be authorized to have experts consult with allied bank commission when it is passing on licensing consideration given in B (3).

C. Comments:

1. Although we are advised that OMGUS considers.

B (2) a statement of licensing criteria rather than a prohibition, as drafted resembles latter. Drafting clarification would help here.

2. Paragraph 1 UK draft does not make it clear that matter of timing lifting moratorium is for occupying powers (see memo 3). However that point was covered by me in discussion, and do not think it need by further emphasized in recommendations intergovernmental group, which are not to be made public.

3. Distinction in paragraph 2 UK draft re transactions within a particular monetary area and those involving two areas seems objectionable. Basic question is to decide whether non-German owners should be allowed to sell his property to another non-German for foreign exchange which will not be brought within German economy. General US

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 Authority NND 801001
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financial policy would favor this freedom. On other hand from standpoint purchaser it might be argued that a new foreign investment is involved. Moreover, understand countries having currency control frequently refuse to recognize validity transfers between foreigners involving property in country unless foreign exchange paid is surrendered for local currency counterpart. Am inclined to think we should not prohibit such ~~xxxx~~ transactions so long as Germans not involved unless there are difficult foreign exchange problems which I do not see. Believe such transactions should be under license however in order to police them from standpoint German cloaking, etc.

4. As to paragraph 3 UK draft my view is that unless B (3) of draft in TT 1441 is eliminated as Department has recommended, some opportunity ought to be given private interests involved to make out case for licensing.

Would appreciate your comments.

Sent Department 5586 repeated London as 1177 repeated
 USPOLAD Berlin pass OMGUS as 630.

CAPPERY

mlm

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306259