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Authority VND 75057  
By JW NARA Date 9-16

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Eleventh Ordinance Pursuant to the Reich Citizenship

Law dated 25 November 1941

On the basis of Section 3 of the Reich Citizenship Law dated 15 September 1935 it is hereby ordered as follows:

Section 1

Any Jew having his normal residence abroad cannot be a German citizen. A Jew is considered to have his normal residence abroad if the circumstances indicate that his residence abroad is not temporary.

Section 2

Any Jew shall forfeit the German citizenship

- a. if his normal residence on the effective date of this ordinance was in a foreign country, on this date,
- b. if he subsequently establishes his normal residence in a foreign country, on the date of his leaving Germany to take up residence abroad.

Section 3

1. The property of a Jew who loses the German citizenship on the basis of this ordinance shall be forfeited to the Reich upon the loss of his citizenship. In addition property of Jews who at the effective date of this ordinance were stateless and who prior thereto were German citizens, shall be forfeited to the Reich if their normal residence is in a foreign country or if and when such residence is established.

2. The forfeited property shall be used for the furtherance of all purposes in connection with the solution of the Jewish problem.

Section 4

1. Any person whose property has been forfeited to the Reich pursuant to Section 3 cannot acquire property from a German citizen by way of inheritance.

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2. Any gifts by German citizens to persons whose property is forfeited to the Reich pursuant to Section 3 are prohibited. Any person making or promising to make a gift in contravention of this prohibition shall be punished by imprisonment for a maximum term of 3 years and a fine or by one of these penalties.

#### Section 5

1. The German Reich shall be liable for the obligation of a Jew whose property has been forfeited to the Reich to an amount not exceeding the sales value of such properties and rights as shall have been subject to the control of the Reich. The liability for obligations does not arise if the fulfillment of such obligations would be contrary to popular feeling.

2. Any rights attached to property, control of which has passed to the Reich, shall continue to exist.

3. In the event that the obligations exceed the value of the property application for the opening of bankruptcy proceedings pursuant to the German Bankruptcy Law with respect to the property which has passed to the Reich may be made by the Reich Finance Minister or by a creditor. The liquidator in bankruptcy shall be appointed subject to the approval of the Oberfinanzpraesident of Berlin and shall be recalled at the latter's request.

#### Section 6

1. In the case of a Jew whose property shall be forfeited to the Reich pursuant to Section 3 being responsible in accordance with existing legal provisions or on the basis of contractual obligations, to support a third party, the Reich shall not be liable for any claims for support maturing after the forfeiture of the property to the Reich. However, a compensation may be granted to Non-Jewish persons entitled to claims for support whose normal residence is in Germany.

2. Compensation may be granted by payment of an amount of money not exceeding the sales value of the property control of which has passed to the Reich.

3. Compensation may be granted by transfer of property or rights belonging to the property taken over by the Reich.

### Section 7

1. All persons having possession of forfeited property or owing debts with respect thereto shall report such possession or such indebtedness to the Oberfinanzpraesident of Berlin within a period of six months upon forfeiture of the property (Section 3). Any person acting, intentionally or negligently, in violation of this duty to report shall be punished by imprisonment not exceeding 3 months or by a fine.

2. Claims against the forfeited property shall be reported to the Oberfinanzpraesident of Berlin within six months from the date of forfeiture of the property. Satisfaction of claims filed after the expiration of this period may be refused without indicating the reasons therefor.

### Section 8

1. The decision as to whether the conditions under which property shall be forfeited to the Reich have been satisfied shall be made by the Chief of the Security Police and Security Service (S.D.).

2. The Oberfinanzpraesident of Berlin shall be responsible for the administration and utilization of the forfeited property.

### Section 9

1. Insofar as the Land Registers have become inaccurate by reason of the forfeiture of property, they shall be adjusted free of charge at the request of the Oberfinanzpraesident of Berlin.

2. In order to record the forfeiture of a mortgage in respect of which a mortgage deed has been issued or to record an entry to the effect that a mortgage deed shall not be issued, the presentation of the mortgage deed shall not be necessary. If the mortgage deed is presented, the Court of Record (Grundbuchamt) shall deliver it to the Oberfinanzpraesident of Berlin unless the mortgage deed has to be filed with the land files in accordance with the general provisions.

3. If a mortgage has been forfeited in respect of which a mortgage deed was issued, the Oberfinanzpraesident of Berlin is authorized to apply for issuance of a new mortgage deed to replace the previous one following a statement on his part to the effect that the original

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mortgage deed is not available. Prior to the issuance of a new mortgage deed the Court of Record shall start appropriate investigations as to the whereabouts of the original mortgage deed. Upon issuance of the new mortgage deed the original deed shall become invalid. The invalidation of the original mortgage deed and the issuance of the new one shall be published in the official German Gazette. The new mortgage deed shall be issued free of charge.

4. The Court of Record is authorized to take steps to secure presentation of the original mortgage letter by the holder.

5. In the case of mortgage deeds which have been forfeited to the Reich the pertinent provisions protecting innocent parties with respect to rights derived from persons not entitled thereto shall only be applied if a contract has been entered into within the territory of Greater Germany and the mortgage deed is at a place in Greater Germany.

6. The Reich shall be authorized to grant compensation on the basis of fair consideration of the facts to a person having suffered losses by acting in good faith and without gross negligence with respect to the unamended mortgage deed in circulation. The provision of this section shall not affect claims on the basis of general legal provisions.

7. The provisions under par 2 through 6 shall be applicable to "Grundschulden" (special type of mortgage) and "Rentenschulden" (charge on property requiring the landowner to pay a specific sum at regular intervals) in respect of which a deed has been issued.

#### Section 10

1. Claims for pension by Jews whose citizenship is forfeited pursuant to Section 2 shall cease to exist at the close of the month in which the citizenship has been forfeited.

2. Whenever it is provided in the pension laws that in case of death of the beneficiary his dependents shall be entitled to receive widows' allowance, orphan allowance, living allowance or similar benefits, such dependents may be granted a living allowance as from the time of the suspension of pension payments pursuant to section 1 if the dependents have their residence in Germany. The amount of the living allowance payable to non-Jewish dependents shall

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not exceed the amount payable to dependents of Civil Service employees, living allowance payable to Jewish dependents shall not exceed one half of such amounts. Children allowance shall only be granted to non-Jewish dependents.

Section 11

In order to avoid undue hardship arising from the forfeiture of property to the Reich, the Reich Finance Minister shall be authorized to issue directives implementing sections 3 through 7 and section 9. This provision shall also apply to cases where property was, or will be, declared to be forfeited in accordance with the Law concerning the revocation and cancellation of the German citizenship - dated 14 July 1933.

Section 12

This ordinance shall also be applicable in the Protectorate of Bohemia and Moravia and in the annexed eastern territories of the Reich.

Section 13

The Reich Minister for the Interior in coordination with the Chief of the Party Chancellery and other Reich Ministers concerned will issue the necessary regulations for the implementation and enforcement of this ordinance.

Reich Minister for the Interior

Chief of the Party Chancellery

Reich Finance Minister

Reich Minister of Justice

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OFFICE OF MILITARY GOVERNMENT  
BERLIN SECTOR  
PROPERTY CONTROL BRANCH

APO 742-A, US ARMY  
BERLIN, GERMANY

1 Apr 1948

SUBJECT: Classification of Present Status of former Jewish, Polish and Czech Properties

TO : OMGUS, Property Division, Property Control Branch  
APO 742, US ARMY, Berlin, Germany

Attn: Mr. W. DICKMAN

1. This Office requires an established policy for the uniform handling of the following categories of properties now, and in the event a restitution law is promulgated, for the US Sector of Berlin.

(a) The first example of the above mentioned cases involves property of Jews of German nationality who were forced to change their residence to territories outside of Germany. The confiscation of their properties was accomplished under the 11th decree of the Reich citizen law (RGB I, p.1270) and the necessary entries were required to be made in the official registers (Grundbuch and Handelsregister). The Legal Committee of the Allied Kommandatura in a letter to the Kammergerichtspräsident advised that laws repealed under ACA Law No. I dated 20 Sept 1945 did not apply retroactively and the legal consequences resulting from the repealed laws were not removed. In other words, it is believed that property which had become Reich property by operation of the above mentioned Reich citizen law remains Reich property today irrespective of whether or not corresponding entries were made in the official registers (Grundbuch and Handelsregister). The Reich citizen law specifically states in paragraph 9 "insofar as the land registers have become incorrect by the escheat they have to be rectified without charges upon request of the Oberfinanzpräsident Berlin". The fact that the Oberfinanzpräsident may not have completed that task in every case does not seem to change the legality of the transfer effective by the German law. In view of the repeal of this particular law (Reich citizen law, RGBl. I, p.1270) there is no authority which can now legally apply to have the Grundbuch or the Handelsregister changed or rectified to correspond to the legal ownership. Thus the problem arises as to whether or not we are to judge ownership of these properties by the present entries in the Grundbuch and/or Handelsregister or whether or not we are to recognize the transfer of title to the German Reich by operation of law as provided for in the 11th decree of the Reich citizen law irrespective of the Grundbuch entries.

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(b) The next example of such properties are those of German Jews who were deported to concentration camps and places inside the German territory which includes Theresienstadt, now in Czechoslovakia. These properties were seized and confiscated under paragraph 1 of laws regarding seizure of communistic properties dated 26 May 1933 (RGBl.I/293) and persons holding hostile views against the German people and state dated 14 July 1933 (RGBl.I/479). Confiscation under these laws was accomplished by forcing the person involved to make a declaration of all his property and acknowledging by signature the confiscation of his property. This was done by the Gestapo and the SS just prior to shipping these persons to their deaths at concentration camps. Immediately upon completion of this act, the German Reich or its agencies assumed the administration of the properties. In most cases, legal notice of the confiscation and denaturalization was given by the publication in the Reichsanzeiger. Normally the next step was the entering into the Grundbuch, the change of ownership in accordance with the above mentioned events. However, in numerous cases, the changes in the Grundbuch and other official registers have not been effected. As these two laws have not been repealed by ACA Law No. I (12 July 1945), certain problem arises where the former owner or owners are still owners of record in the Grundbuch. Shall we classify such properties as G-properties or shall we give them the classification of A, K or H in accordance with the present citizenship of the owner or his legal heirs? A statement of policy is absolutely necessary in this connection because heirs and registered owners are at present returning to Berlin and demanding that we release their properties to them under the decontrol program since they are still registered in the Grundbuch.

(c) Another problem pertains to properties of persons of Polish nationality whose property was subject to forced administration by the law concerning properties of subjects of the former Polish state dated 17 Sept 1940 (RGBl.I, p.1270). The properties of citizens of the Polish state were administrated by the Haupttreuhandstelle Ost whose duties were to seize and sell such real estate properties belonging to Polish citizens. In a great many cases these real estate properties have been sold to third parties and conveyed in the name of the purchasers in the official land registers (Grundbuch). These sales are considered by this Office as sales under duress and therefore subject to Article I, section 2, Law No. 52 and classified as G-properties and are to be held pending the promulgation of a future restitution law. On the other hand, a considerable number of these properties were not sold by the Haupttreuhandstelle Ost and the name of the Polish owner is still registered in the Grundbuch. Since the law concerning the property of the former Polish state dated 17 Sept 1940 has not been repealed by the Control Council or US Military Government and is still in effect we do not know just what treatment should be given to these properties which were not sold by the Haupttreuhandstelle Ost. It is our understanding that in taking over the administration of properties of the citizens of the former Polish state by the Haupttreuhandstelle Ost, no transfer of title was effected by the operation of this law. The law in itself did not provide for confiscation so without further actions by the Haupttreuhandstelle Ost, title to the property remained with the Polish citizen although he was denied all use of it.

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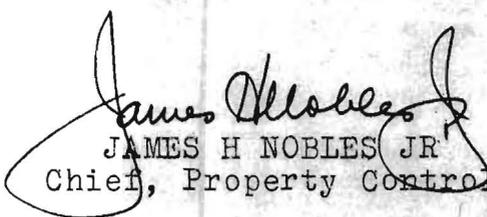
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(d) The final problem involves the properties of Jews of Czech nationality situated within the then German Reich which were confiscated in favor of the German Reich by reason of the decree entitled "deprivation of citizenship of the Protektorat Böhmen & Mähren of 3 Oct 1939 (RGBl.I, p.1997)". The confiscation was likewise effected by operation of law. The properties confiscated in favor of the Reich under denaturalization were transferred to a Central Office for the settlement of the Jewish question in Böhmen & Mähren (Zentralamt für die Regelung der Judenfrage in Böhmen & Mähren) as their property. Thus the Auswanderungsfonds for Böhmen & Mähren was registered as owner in the land register in all these cases. The ordinance of 3 Oct 1939 referred to above has not been repealed or abrogated up till now, so that these properties continue to be the property of the Auswanderungsfonds. The question now arises as to whether we shall classify all these properties as duress properties or whether in these specific cases where due to failure of the Grundbuchamt the Auswanderungsfonds for Böhmen & Mähren was not registered as owner such property shall be classified other than "G" and subject to decontrol. Since the confiscation of these properties was effected by operation of the above mentioned law and was not dependent upon the act of any Grundbuchamt official we think that all such property should be classified as G and held pursuant to Article I, paragraph 2 of US Military Government Law No. 52 pending the settlement of all such claims under a future restitution law.

2. We consider that the best solution to all of this property is today that the necessary laws and acts were sufficient to confiscate such property under German law and therefore all such properties should be classified as duress property and held under custody of US Military Government Law No. 52, Article I, paragraph 2, pending the promulgation of a restitution law for the US Sector of Berlin. In these cases where the entries in the Grundbuch have not changed in accordance with the confiscatory laws of the Nazi regime we do not feel that they reflect the legal ownership of the property. A re-statement of policy is necessary because this Office has been informed by you that we shall classify properties in accordance with the present registered owners in the Grundbuch. ~~We believe to adopt any other position would say that these laws were void ab initio thus relieving any necessity for a restitution law. The owners registered just prior to the enactment of these laws would immediately be recognized as the legal owners and subject to decontrol.~~

FOR THE DIRECTOR

Ext: 42814

  
JAMES H NOBLES JR  
Chief, Property Control

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By JW NARA Date 9-16

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OFFICE OF MILITARY GOVERNMENT

LAND WUERTEMBERG-BADEN  
7780TH OMCUS GROUP, WURTEMBERG-BADEN SECTION  
~~FIRST MILITARY GOVERNMENT BATTALION (SER)~~

APO 154

US ARMY

JAP/gw  
Prop Con

STUTT GART, GERMANY  
25 May 1948

SUBJECT : Reclassification of "G" Properties

TO : Commanding General,  
Office of Military Government for Germany (US)  
Wiesbaden, Germany, APO 633, US Army  
Attn: Property Division, Property Control Branch  
(Mr. Korfanty)

1. Pursuant to telephone conversation with Mr. Korfanty instructions were issued by this office to the LCAH to review all category "G" cases to determine whether such properties were still legally registered in the Grundbücher in the names of the former owners prior to confiscation or transfer thereof under duress, and that, wherever indicated, such properties be reclassified in categories "A", "K", "H" or "J", if information or the lack of information concerning the nationality of the owner justified such reclassification.

2. A serious question has been raised by the office of the LCAH concerning the advisability for such reclassification. It is maintained that such reclassification prevents the filing of reports concerning such properties to the Zentralamt in Bad Nauheim which information should be filed there for purposes of assuring the orderly administration of Military Government Law No. 59. An additional argument submitted against reclassification is the contention that the former owners of such properties were in many cases deported or expatriated, and their properties expropriated, confiscated or sold by operation of various Nazi laws and ordinances so that the Reich automatically acquired title thereto, even though no change in title was effectuated in the Grundbücher. This tends to confuse the status of this type of properties. In this connection reference is made to "Subsidiary Ordinance No. 11 of 25 November 1941, pursuant to the Reich Citizen Law of 15 September 1935" (11. Verordnung zum Reichsbürger-Gesetz vom 25. November 1941). According to Par. 2 of said Ordinance a Jew lost his German citizenship (a) if on the effective date of the Ordinance he resided in a foreign country, (b) if he subsequently established residence in a foreign country upon removal thereto. Par. 3 of said Ordinance states that the property of any Jew divested of German citizenship on the basis of

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this Ordinance accrues to the Reich as of the date such person is divested of German citizenship. Par. 9 of said Ordinance states that insofar as Grundbuch entries are rendered incorrect by escheat of the property to the Reich under this Ordinance, such entries must be corrected free of charge on request by the Oberfinanzpräsident Berlin. Consequently, even though Grundbuch entries were not changed and the property is still registered in the names of the former owners, title thereto passed to the Reich by operation of law. Such transfers of title constitute clear cases of duress notwithstanding the fact that title still remains in the name of the former owners, and it is to be presumed that such former owners or their heirs will act on the premise that they were divested of title and will file claims thereto under Military Government Law No. 59. In the circumstances, therefore, the Zentralamt in Bad Nauheim should accumulate data through reports on these properties in order more efficiently and effectively to process claims that may be filed by such former owners or their heirs. The reclassification of such properties from "G" to "A", "K", "H" or "J" is not consistent with such administration of MG Law No. 59.

3. It is requested that the entire matter be reviewed on the basis of the foregoing information, and your comments or instructions be forwarded to this office as soon as practicable.

FOR THE DIRECTOR :



ZINN GARRETT  
Land Property Control Chief

Tel: Stuttgart 93221/573

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REPRODUCED AT THE NATIONAL ARCHIVES

F. Miller  
8013  
8845

December 13, 1949

QUESTION NO. 45:

Under the Restitution Program, is any plan in force to alleviate hardship where Jewish property was bought in good faith, particularly in the case of small farmers and businessmen?

COMMENT:

One of the basic principles characterizing the Restitution Law and expressed in the first article of the Law, states that "property shall be restored to its former owner or to his successor in interest in accordance with the provisions of this Law even though the interests of other persons who had no knowledge of the wrongful taking must be subordinated. Provisions of law for the protection of purchasers in good faith, which would defeat restitution, shall be disregarded except where this Law provides otherwise."

There are, however, provisions contained in the Law for the mitigation of responsibility of persons who are either innocent, or whose acquisition of the property is not attributable to an aggravated or malicious confiscation. For example, a holder or former holder of confiscated property may be excused from liability if he is unable to return the property, or if it has deteriorated, providing he can demonstrate that he has exercised due diligence in his care of the property, and if he is not chargeable with knowledge of the confiscation. Moreover, he may have an accounting for certain funds which he has expended or for a portion of the profits, and may also deduct payment for taxes and other necessary expenses incurred in preserving the property.

The Restitution Law further provides that certain types of property will not be subject to restitution, such as tangible personal property which the present owner or his predecessor in interest acquired in the course of an ordinary and usual business transaction in an establishment normally dealing in that type of property. This provision does not include religious objects or property which has been acquired from private ownership, if it is of unusual artistic, scientific or sentimental personal value, or was acquired at an auction or private sale in an establishment engaged considerably in disposing of confiscated property. Money is subject to restitution only if the person acquiring it knew or should have known at the time and under the circumstances that it had been obtained by way of confiscation.

Under German law in force during the Nazi Regime, all Jewish persons were required to adopt a first name which would readily identify such persons as Jews. Consequently, the sale of any real property

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owned by them would reflect, in the Land Title Register, the identity of the Jewish owner at a glance, and would put the next purchaser on notice. Consequently, many purchasers of Jewish real estate, by an ordinary search of title, should have been in a position to know that the seller was Jewish, and under then-prevailing discriminatory policy and legislation concerning Jews, may be presumed to have known the source of the property.

The Restitution Law presumes that any transfer or relinquishment of property made by a person who belonged to the persecuted classes now recognized was a transfer under duress. The Law does provide, however, that such presumption may be rebutted by showing that the transferor was paid a fair purchase price (that is, the amount of money which a willing buyer would pay and a willing seller would take, taking into consideration such factors as good will etc.), and providing that the seller had a free right of disposal of the proceeds, and if the transaction was such that would have taken place even in the absence of National Socialism.

There is no plan in force which is designed particularly to alleviate the situation of small farmers and businessmen who may be affected by the Law. The provisions above referred to are provisions from the Restitution Law, which is presently in course of interpretation and decision by the German courts. Final decision or application of the principles outlined here must still be made by these courts and by the Special Court of Appeals for Restitution, an American-staffed final appeals body under Law 59.

Authority NND 775057  
By SZ NARA Date 9-15-99

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Law 59

Form HICOG-8  
(15 Sept 49)

OFFICE OF THE U.S. HIGH COMMISSIONER FOR GERMANY

## OFFICE MEMORANDUM

To: PD - Mr. Miller

Date: December 1, 1949

From: IRSB - Mr. Loewenthal *W.L.*

Subject: Conditions Impeding Restitution Progress

Reference is made to our recent conversations during which rumors which may adversely affect internal restitution progress in the US Zone were discussed.

During the past several weeks we have gathered information confirming disturbing reports which have been received by this office for some time. In substance, the situation may be described as follows:

Throughout the US Zone, officials administering MG Law No. 59 and other persons connected with the program have noted a marked tendency on the part of restitutors to delay final settlements of restitution cases. These tendencies are particularly reflected by the unwillingness on the part of restitutors to conclude amicable settlements, a condition which has been found to prevail to such an extent that restitutors have revoked amicable settlements already concluded before restitution agencies or restitution chambers shortly before the date set for the recording thereof.

The attitude of restitutors is mainly due to wide-spread rumors to the effect that US authorities may modify provisions of MG Law No. 59 in favor of restitutors or that such modifications may result from the issuance by the Bonn government of a uniform restitution law for Western Germany, which will be framed along the lines of restitution laws in effect in the French and British zones of occupation. In either case the belief is that certain provisions of MG Law No. 59, for example Article 30 "Strict Liability", which are deemed particularly severe as compared to provisions of restitution laws existing in the other zones, will be amended or even eliminated.

Expectations that MG Law No. 59 may be abandoned in favor of uniform restitution legislation for Western Germany gained considerable momentum after 22 delegates of the Lower House submitted a motion for enactment of such uniform legislation by the Bonn government (TAB A). It is understood that this motion was given wide publicity by the German press and radio.

Following are excerpts from reports made by leading restitution officials on the situation:

"... As previously reported, information obtained from the Agency Heads is to the effect that delaying tactics are being employed by restitutors who openly state that they believe that if the restitution program is prolonged the occupation authorities will lose interest and such lack of interest will definitely be to their advan-

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tage. These tactics consist of waiting until the last possible moment before answering the notice served on them by the agencies pursuant to Article 61, and in requesting postponement of scheduled hearings. The Agency Heads are of the opinion that although such action cannot be construed as a breach of the law it does indicate an unwillingness on the part of the restitutors to come to terms and therefore is causing considerable delay." (Excerpt of a letter from Mr. Dickerson, Land Supervisor, Bavaria, to IRSB, dated November 9, 1949).

"... Many restitutors still anticipate that the law may be modified in a sense more favorable to them. They have been strengthened in their belief by the fact that in some points the restitution law for the British Zone is more favorable to the restitutors. Above all they hope for a future federal law. They assume that such federal law will be modelled in conformity with the most lenient of the existing laws, namely the law in the French Zone." (Excerpt of a letter from Dr. Kuester, Head of Department VI of the Ministry of Justice for Wuerttemberg-Baden, to IRSB, dated November 11, 1949).

"... The restitutors are often of the opinion that in the long run there cannot be in force within the federal territory of Western Germany three different restitution laws, with an additional law in the Western Sectors of Berlin, but that the Federal Government will have to issue a uniform restitution law which at the same time will lessen the severity of the US Military Government Law No. 59. They think specifically of the strict liability imposed by Article 30 of the law which excludes the possibility of a transaction in good faith on the part of the restitutor, and that the efforts in this respect, which are especially evident in the French Zone, will be successful." (Excerpt of a letter from Dr. Malende, in charge of restitution at the Branch Office Karlsruhe of the Ministry of Justice for Wuerttemberg-Baden, to IRSB, dated November 8, 1949).

"... The following points are considered to adversely affect the expeditious execution of MG Law No. 59 and thereby restitution in general:

5) There are rumors and notices in the press regarding a change of existing restitution legislation through coordination (with restitution legislation in other zones). Restitutors hope for a similar development as that experienced in the field of denazification. In this connection certain modifications of the substantive provisions of the law are being anticipated by restitutors." (Translated excerpt of a letter from Dr. Endres, Vice-President, Bavarian Land Central Office for Restitution, to IRSB, dated November 15, 1949).

"... This office has received in recent weeks many complaints made by restitutees or their authorized agents to the effect that numerous restitutors are endeavoring to delay restitution proceedings, hoping that the provisions of the restitution law will be modified in a way favoring their interests." (Excerpt of a letter from Dr. Weissstein, Deputy Chief, Land Central Office for Property Control and Restitution, Hesse, to IRSB, dated November 9, 1949).

"... It has been noted in Regensburg that in numerous cases conditional amicable settlements have been revoked because the persons concerned allegedly had learned that an anticipated modification of MG Law No. 59 would substantially improve their position." (Statement of Landgerichtsrat Endres of the Landgericht Regensburg (Restitution Chamber), made at the meeting in Munich on November 14, 1949).

"... Landgerichtspräsident Lobmueller of the Landgericht Wuerzburg (Restitution Chamber) is of the opinion that amicable settlements are frustrated because the restitutors hope for a modification in their favor and do not endeavor to settle on an amicable basis." (Excerpt of the minutes of the meeting in Munich on November 14, 1949).

"... Landgerichtsdirektor Ackermann of the Landgericht Munich I (Restitution Chamber) declares that for various reasons he personally was under the impression that people now count on a modification in favor of the restitutors. Also in the press certain publications had been issued." (Excerpt of the minutes of the meeting in Munich on November 14, 1949).

The aforementioned conditions and the fact that recently an association for the protection of the interests of restitutors (TAB B) has been formed, represent, in the opinion of this office, the first conclusive evidence of the presence of resistance against the internal restitution program conducted under MG Law No. 59.

It is felt that the ultimate success or failure of internal restitution will largely depend upon the willingness of the parties to settle amicably. Therefore, conditions such as those described above are viewed by this office with considerable concern particularly in connection with the speedy completion of the program.

Although present statistics do not show any appreciable reduction in the disposition of cases made by restitution authorities, a downward trend in such dispositions must be expected unless existing rumors are counteracted by a firm statement to the contrary. To that end, it is recommended that a firm statement of policy clearly indicating the attitude of HICOG with respect to MG Law No. 59 be issued with the least possible delay and be given wide publicity.

Telephone BAD NAUHEIM 2041  
Ext. 174

IRSB: W.M.Loewenthal: kj

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 Authority NND 775057  
 By TS NARA Date 9/17/98

Box 4  
 RG 260 390/44/20/1-3

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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 ~~XX~~ 633

FILE NO:

SUBJECT: Envelopes of Former Inmates of the Dachau Concentration Camp

NO.	TO	FROM	DATE	(Has this been coordinated with all concerned?)
1	OFA	PD PC&EA Br	4 Nov 48	<p>1. Reference is made to your letter of 7 September 1948, subject as above, reply to which was delayed pending determination of the status of these property effects through contact with the Central Depository in Frankfurt.</p> <p>2. The information secured by us would indicate that the approximately 1,400 envelopes remaining, packed in 7 Wehrmacht ammunition boxes, in no way appear to be the property of persecuted persons but conversely appear to be the property of criminals. According to our information, the property of persecutees, who had been inmates of Dachau and who reside outside of Germany, were dispatched to the countries of residence for appropriate disposition sometime ago. The foregoing information puts an entirely different aspect on the matter.</p> <p>3. According to information submitted to this office, lists of the names of persecutees who were sent to Dachau are available in Munich. It is, therefore, suggested that, if you have any lists as to the identity of the persons to whom the property effects belong, said lists be transmitted to this office. They will then be checked against the lists of the persecutees in Dachau, available in Munich. The personal effects belonging to persecutees can then be transferred to the jurisdiction of this office as falling within the purview of Military Government Law No. 59. With respect to the remainder of the envelopes, this office is of the opinion that it would have no jurisdiction over same. Said property effects, however, might well be transferred to the Ministries of Justice for such disposition as is provided for by German Law.</p> <p>4. Transmittal of the information requested hereinabove or your views and comments with regard to disposal of the entire matter would be appreciated.</p>

*Fred E. Hartzsch*

FRED E. HARTZSCH  
 Chief

Tel: Wiesbaden 21341  
 Ext. 436  
 Wilson 425

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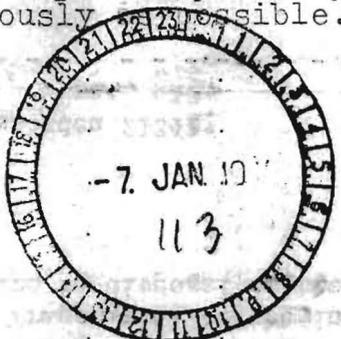
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FILE NO:  
 SUBJECT: Envelopes of Former Inmates of the Dachau Concentration Camp

NO.	TO	FROM	DATE
2	PD PC&EA Br	FA IEFG. Br	3 Jan 1. 49

Pursuant to Minute 1 we are transmitting herewith a twenty-five page Annex A which lists the names of approximately 1,200 German nationals for each of whom the Foreign Exchange Depository, Frankfurt /Main, holds an envelope containing miscellaneous personal effects of small value.

2. It is requested that the aforementioned list of names be checked against the list of persecutees formerly held in Dachau. In view of the approaching deactivation of the Foreign Exchange Depository kindly furnish this office with your reply as expeditiously as possible.



1 Incl: a/s  
 Mr. Fitch  
 Tel 43797  
 Rm 1052, Econ Bldg

*Ralph McCabe*  
 RALPH McCABE  
 Acting Chief  
 Internal and External  
 Finance Group

Authority NND 775057  
By SZ NARA Date 9-15-99

Bx 9 260-44/20/1-3

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)  
Property Division  
APO 742  
Berlin, Germany

*Law 59*

June 1949

SUBJECT: Interpretations of Articles 11 and 56 of Military Government Law No. 59 (Restitution of Identifiable Property)

TO : The Chief of Staff

I. DISCUSSION.

1. Article 11, paragraph 2 of Military Government Law No. 59 provides that "If the claimant himself has not filed a petition on or before 31 December 1948, the successor organization by virtue of filing the petition shall acquire the legal position of the claimant. Only after that date, and not prior thereto, shall it be entitled to prosecute the claim."

2. It has now come to the attention of this office that the Jewish Restitution Successor Organization interprets this as giving them a substantive right, on the basis of petitions filed by them, to all properties for which there was no claim filed before 31 December 1948. It is the contention of the Jewish Restitution Successor Organization that it does not have to subrogate its rights to a claimant filing after 31 December 1948.

3. To protect this substantive right, the Jewish Restitution Successor Organization has asked the Restitution Agencies to submit all inquiries or petitions received after 31 December 1948 to the Regional Office of the Jewish Restitution Successor Organization. Such inquiries or petitions are examined by a Board established by the Jewish Restitution Successor Organization, which determines whether they wish to prosecute the claim in the name of the Jewish Restitution Successor Organization or to accept the claimant, heir, or legatee and relinquish to him the right to prosecute the claim.

4. This quasi-judicial proceeding, and the insistence that they have obtained a substantive right, on the basis of petitions filed by them, to all properties for which no other claim was filed before 31 December 1948 is an unwarranted

TO: The Chief of Staff

June 1949

assumption and usurpation of authority never contemplated by Military Government, nor in keeping with the objectives of substantial justice, the limitations of the law, or the provisions of the appointment of the Jewish Restitution Successor Organization as a successor organization.

5. There is, however, an opinion of Legal Division dated 1 March 1949 (TAB A), which may be considered as supporting the position of the Jewish Restitution Successor Organization. This opinion states that "the right of petition created by the law is not merely unenforceable after 31 December 1948 but ceases to exist in the petitioner. Thus a potential claimant who has been prevented from entering a timely claim no longer has the right to petition for restitution." This opinion is not deemed controlling in that here no "petition" as defined under Law No. 59 is involved. The "petition" is that which was filed with the Central Filing Agency by the successor organization. The question involved is whether a successor organization, (which, by instrument of appointment, is only authorized to claim heirless property) by the mere circumstance of having timely filed a claim, acquires substantive rights on the basis thereof, superior to, and to the exclusion of, the rights or interests of a true claimant who filed after the expiration date, or of whose existence the successor organization has notice? A second related question is the following: Is it exclusively for a successor organization to decide whether a petition timely filed by it shall be deemed effective or not in favor of a true claimant who failed to file a petition before the expiration date?

6. Article 11, paragraph 2, can in no way confer upon the Jewish Restitution Successor Organization the rights they claim. The preceding Article 10 specifically provides that "a successor organization appointed by Military Government shall, instead of the State, be entitled to the entire estate of any persecuted person in the case provided for in Section 1936 of the Civil Code (Escheat of estate of person dying without heirs.)" (italics added). The substantive rights of valid heirs are further specifically protected in Article 56, paragraph 4, which provides that "any petition, filed by a person who is not entitled to restitution of the property, shall be deemed to have been effectively filed in favor of the true claimant, or where Articles 8, 10 and 11 are

TO: The Chief of Staff

June 1949

applicable, in favor of the successor organizations mentioned therein. "The same shall apply to the filing of petition by such successor organization." (*italics added*). The appointment of the Jewish Restitution Successor Organization under Regulation No. 3 of Military Government Law No. 59 further specifically provides that decisions such as those made by the Jewish Restitution Successor Organization "Board" would not be within the scope of the appointment. Section 11, paragraph 4, of the appointment provides that "any dispute as to the right of the successor organization to claim property under the Law shall be determined by the Restitution Chamber whose decision shall be subject to appeal and review in the same manner as in other cases."

7. The second sentence of paragraph 2, Article 11, clarifies the actual legislative intent concerning the acquisition by a successor organization of the "legal position of the claimant". Rather than granting a substantive right, it is a limitation of a successor organization's right even to appear as a claimant until after the expiration of the 31 December 1948 deadline for the filing of petitions.

II. ACTION RECOMMENDED.

8. That the AG letter to the Land Offices of Military Government appearing at GREEN TAB be signed and dispatched.

9. This recommendation is not a departure from present policies or previous procedures.

III. CONCURRENCES.

Legal Division

Tel: WIESBADEN 21341  
Ext 426

PHILLIPS HAWKINS  
Director

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By TS NARA Date 9/17/99  
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File Rec Branch C  
Box 4

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)  
Property Division  
Property Control and External Assets Branch  
APO 633  
Wiesbaden, Germany

28 December 1948

REPORT  
of the  
MEETING  
of the

LAND PROPERTY CONTROL CHIEFS

held in Wiesbaden on 16 and 17 December 1948.

MEMBERS PRESENT:

- Mr. Fred E. Hartzsch Chairman, Chief, PC&EA Br., OMGUS
- Mr. E. J. Cassoday D/Director, Property Division, OMGUS
- Mr. P. Roberts Control Office, OMGUS
- Mr. J. A. Porter Chief, Claims Section, PC&EA Br., OMGUS
- Mr. W. N. Burgess Chief, U.N.&N. Section, PC&EA Br., OMGUS
- Mr. J. S. Korfanty Chief, Accounts & Audits Section, PC&EA Br., OMGUS
- Mr. S. T. Brooks Chief, German Property Section, PC&EA Br., OMGUS
- Mr. W. N. Loewenthal Chief Investigator, Claims Section, PC&EA Br., OMGUS
- Mr. D. G. Whiton D/Chief, German Property Section, PC&EA Br., OMGUS
- Mr. J. R. Cain LPCC, Hesse
- Mr. S. L. Ehrlich A/LPCC, Bavaria
- Mr. A. C. Yingling Property Specialist, Bavaria
- Mr. W. Goehring LPCC, Bremen
- Mr. Zinn Garrett LPCC, Wuerttemberg-Baden
- Mr. J. McNulty Chief, Property Control Branch, Berlin Sector
- Mr. B. Fischbein Chief, Central Filing Agency, Bad Nauheim
- Mr. J. T. Wilson D/Chief, Claims Section, PC&EA Br., OMGUS

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The need for handling outstanding German correspondence that could be handled by this Office was answered here, but, in order to expedite matters, special cases were referred to the Land Property Control Chiefs for forwarding to the Civilian Agency Heads or custodians for direct reply to the claimant.

Regarding mail pertaining to property located in the Russian Zone, at the request of the State Department, one original and four follow-up letters are sent, two at three months' periods and then two at six months' periods. In other words, there will be five letters in our files pertaining to a certain property in the Russian Zone.

Both the British and the French have asked that we do not request them to make investigations or ask that a custodian be appointed for properties located in their Zones. At the present time, only complaints on properties which we know are under control in their Zones will be forwarded to them.

There have been over 3,500 United Nations and Neutral properties released since the last meeting. These figures show a gradual increase, apparently reflecting better results from our efforts to have owners decontrol their property. These figures, of course, include 1,700 properties of Standard Oil of New Jersey.

To date, we have had over 100 replies in this Office to the form letters which were sent out by the Laender. Of this amount, we had only five unfavorable replies. Most of the people stated that they were preparing the documents, the powers of attorney or whatever they needed, and that they preferred to have the property under Military Government control as long as possible. Where the property was completely destroyed, they weren't interested in it.

Mr. Burgess pointed out that the Laender had difficulty in applying the provisions of the AG Letter on the "Charging of Fees", but that a new staff study had been sent to Berlin and was being reviewed by Legal Division and that the Laender probably would receive this in a very short time.

Regarding the reports concerning absentee German property where present address is unknown:

Berlin Sector sent in the first written report, and Mr. McNulty was complimented on a fine job. There seemed to be no difficulties in the procedure of handing these properties over to the German Courts as provided for under German Law. Telephone reports from most of the Laender revealed that they were all preparing to turn these properties over but the Courts were slow in appointing curators. Mr. Burgess requested written reports from all the Laender.

In regard to the export of personal and household effects, the point was brought up that property acquired since 8 May 1945 required special license. The Office of Finance Advisor has indicated that they were the licensing authority for all such special licenses and we have requested the Office of Finance Advisor to indicate whether the Land Finance Offices may issue the special licenses in order to expedite transactions.

The subject of special licenses from transactions under Laws 52 and 53 was then taken up. From the discussion that followed it clearly showed that there was a lack of coordinated procedure in the Laender and Mr. Hartzsch indicated that the whole subject would be given further study. The possibility of issuing a general license was discussed and the Land Property Control Chiefs were advised that a unified procedure would be forthcoming.

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Mr. Boston then discussed the properties in "G" category and the present status of the Restitution Program, with reference to this category of properties under Military Government Law No. 59. Mention was made of the fact that unlike the other categories of properties, the "G" category may be expected to increase on the basis of petitions filed under Military Government Law No. 59. The legislative and administrative developments under Military Government Law No. 59 were briefly dealt with.

Mention was made of some of the more important matters still requiring legislative action or administrative implementation. Among those were the following:

- (a) Article 79 of Military Government Law No. 59 - Avoidance of Testamentary Disposition and of Disclaimers of Inheritance - under study.
- (b) Creation of a General Restitution Successor Organization under Article 10 of Military Government Law No. 59 - in process of preparation.
- (c) Reinstatement of lapsed interests arising out of insurance contracts, lapsed copyrights and industrial patents, etc., under Article 89 of Military Government Law No. 59, insofar as not provided by the General Claims Law - under study.
- (d) Clarification and implementation of Article 72 of Military Government Law No. 59, respecting assessment of costs, fees and expenses.
- (e) Establishment of rules and procedure by the Board of Review, in particular provisions respecting the channeling of inquiries or questions requiring advisory opinions from the Board of Review.
- (f) Validity and enforceability of amicable settlements and decisions in French and British Zones - (agreements to be negotiated with French and British).
- (g) The effect of Military Government Law No. 63 on the Restitution Program, particularly with respect to amicable settlements, the rights of claimants resident abroad, etc., requires further study and solution. Numerous protests have been received with respect to the cut-off date of 20 October 1948 and the application of Article 15 of Military Government Law No. 63, with respect to claimants under Military Government Law No. 59.
- (h) Remedies under Military Government Law No. 59 to be available in proceedings in any Civil Court, where a person under obligation to report pursuant to Articles 73 and 74 failed to do so, and claimant was thereby barred from filing and successfully prosecuting a claim, under Military Government Law No. 59.
- (i) The problems of prosecution of persons or organizations who failed to submit reports under Articles 73 and 74, or who submitted incomplete or false reports, has been referred to Legal Division for opinion. There are a substantial number of incomplete or late reports, presently estimated as exceeding 3,000. A program is under study for notification to be given to concerned persons to file the information necessary to complete such reports by 31 December 1948.
- (j) The degree of field supervision over Restitution Agencies and Courts and the screening of personnel in key positions throughout the Restitution Agencies and Courts as to qualifications and impartiality requires further study and policy determination.

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A complete control system which would provide information respecting all petitions and cases under Military Government Law No. 59, and the progress of same in agencies and courts concerned with the Restitution Programs has been developed and should be inaugurated by 15 December 1948. Proposed reports on a cumulative (for past period) and current monthly basis have also been developed and submitted for approval of concerned Military Government Branches.

The matter of the degree of field supervision over Restitution Agencies and Courts, and the screening of personnel in key positions throughout the Restitution Agencies and Courts, as to qualifications and impartiality, was left to Mr. Loewenthal to discuss.

An estimate was given of the considerable volume of cases or claims that might be expected, which the Restitution Agencies and Courts would have to process. This estimate was made on the basis of petitions and reports already received by the Central Filing Agency and the indicated number of short form petitions which the JRSO will submit. In this connection, Mr. Porter pointed out the obvious deficiencies revealed by the recent inspection and survey made by representatives of the Claims Section on the part of the Restitution Agencies and Courts to cope with this anticipated work-load. These deficiencies were briefly described as insufficient personnel, facilities, supplies, etc. Request was made that the Land Property Control Chiefs' Offices render maximum cooperation to the Restitution Agencies to secure required personnel, etc., to accomplish the discharge of responsibility in connection with the Restitution Program. Where it is found that cooperation from the German Governmental Officials cannot be had in this connection, it was requested that the matter be referred to this Office for further possible cooperative action. Action already taken by this Office to secure authority which would enable representatives of this Office to make specific recommendations to the Minister-Presidents as to the needs of the Restitution Agencies was indicated. Upon receipt of this authority, visits will be made by field personnel attached to this Office to the respective Laender for a review of such needs and then submission of specific recommendations. The situation of Wuerttemberg-Baden and their request for assistance in securing necessary allowances was briefly touched upon as illustrative of the problem, and one possible way of solving it. Mr. Porter also requested that because of the necessity for establishing the program on a sound administrative basis from the very outset, that the Land Property Control Chiefs designate at least one of their staff members exclusively to restitution matters and that inspections of the Land Control Offices and the Restitution Agencies be made in the same manner as they have been made in connection with Property Control to determine the adequacy of organization, administration and procedures. It was also indicated, however, that Property Control personnel, or the German assistants, refrain from any intervention with the substantial aspects of the Restitution Program. It was pointed out that jurisdiction over matters of substance is vested exclusively in the German authorities and that, therefore, Military Government personnel at Land Level should restrict themselves to observation and reports to this Office. A brief description of the Reporting System, approval for which is expected in the near future and which will be put into operation as soon as possible, was given. Full details were left to the discourse by Mr. Loewenthal.

Reference was made to the General Claims Law recently passed by the Laenderrat and submitted for Military Government approval. The effect of this Law on the present organization and administration of Military Government Law No. 59 was pointed out. It was indicated that the charging of responsibility for the execution of this Law on the same agencies charged with the execution of the Program under Military Government Law No. 59, presented serious problems. Both organizations might suffer as a result thereof. It is, therefore, the present position of this Office that the administration of any General Claims Law, if approved, should be vested in a separate agency. This was justified

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on the basis of the volume of work under Military Government Law No. 59 and differences in the nature and disposition of claims under the General Claims Law.

The desirability of accomplishing the Restitution Program under Military Government Law No. 59 with a maximum period of two or three years, was indicated. Much was made of the fact that already there is some evidence of resistance to the Program. The danger of such resistance if the program is long drawn out must increase. The effect of unsettled titles to property, creating uncertain and economic difficulties was also stressed. The completion of the Program as soon as possible so as to remove those difficulties and the subsequent burden upon the German people and Economy, is in line with present Military Government policies and it is, therefore, necessary that Military Government supervision over the administration and execution of the Program be based on this premise.

Finally, reference was made to the policy of this Office with regard to Property Control administration of "G" properties. The result of the conference with the Land Civilian Agency Heads and Restitution Officials in this Office was given. The diversity of progress in the different Laender was pointed out. A statement of OMGUS policy regarding imposition of automatic control upon receipt of notice of a filing of a petition, and the exclusion of the influence of both present owner and claimant from the administration and operation of properties, was restated. This resulted in a discussion regarding the advisability of issuing a Property Control circular. There were differences of opinion on the matter and it was finally decided that further study would be given to it on the basis of the opinions advanced by the representative LPCC and the German Officials.

Mr. Porter then called upon Mr. Fischbein to say a few words concerning some of the problems facing the Central Filing Agency and to give some idea of the number of petitions received and their treatment. Mr. Porter then requested that Mr. Fischbein be followed by Mr. Loewenthal who would discuss the Reporting System in detail and the manner and extent of supervision of the Restitution Program at the Land Level.

The meeting adjourned at 1730 hours to reconvene the following morning at 1000 hours.

Mr. Loewenthal opened the meeting. The responsibility for the administrative control and supervision of the Internal Restitution Program under Military Government Law No. 59 has been delegated to this Branch and, more specifically, to the Claims Section. For the purpose of exercising this control and supervision, the staff of the Claims Section has been enlarged to include one Chief, Field Operations and two investigators. It is evident, of course, that this staff is much too small to exercise anything more than general control over the Program throughout the Zone, and the Offices of the Land Property Control Chiefs must, consequently, be relied upon to exercise such supervision and control over the Program as is necessary in the respective Laender. I will later on attempt to give you a general outline of what may reasonably be expected from Land Property Control Chiefs with regard to the supervision and control of the Program.

As far as the Claims Section is concerned, it is presently concentrating on the establishment of a competent reporting system. It has been decided that it is not sufficient to exercise merely general control over the progress made, but that it is necessary to keep informed of the progress made in each individual case. We will, therefore, require the establishment of two types of reports. The first type will be an action report on each petition received by the Central Filing Agency. This will be accomplished in the following manner: The Central Filing Agency will maintain an action record card on each individual case. Every step

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such a step has been taken by a Restitution authority, it will report this action directly to the Central Filing Agency. A copy of this action report will be forwarded to the Land Central Office for Restitution. For these reports Restitution authorities will use short forms on which they will, besides designating the petition or case, only indicate the number assigned to the individual step taken by them. Upon receipt of an action report, the Central Filing Agency will enter the information submitted on the action record card. The date of the action will be entered within the space provided for the specific step taken. A tickler system being maintained as part of the action record card will clearly indicate whether further action is being taken within the time limit provided for under Military Government Law No. 59. The following additional action reports for which no specific numbers have been assigned, are required:

- (a) Reports on petitions transferred according to Article 59 of Military Government Law No. 59 (venue).
- (b) Reports on cases which have been submitted to Restitution Agencies by German Courts according to Article 71 of Military Government Law No. 59.
- (c) Reports on cases which have been remanded by an Oberlandesgericht or the Board of Review.
- (d) Reports concerning the nature of final settlements made of petitions or cases.

The other system of reports will be progress reports covering the activities of the Restitution authorities on a monthly basis. In sum, those reports will show the number of petitions or cases received by the Restitution authorities, the number of petitions or cases disposed of, the manner in which disposition was made, and the number of petitions still on hand. These reports will be compiled by the Land Central Offices on the basis of the individual action reports copies of which, as previously mentioned, will be submitted to them by all Restitution authorities. The reports of the Land Central Offices, in turn, will be used by this Office for the development of charts which are expected to present a clear picture of the progress made by each Restitution authority and which will enable us to determine which of the Restitution authorities, if any, are not properly functioning. Depending upon the nature of the deficiency, we will then either request the Land Property Control Offices to conduct an investigation or conduct such an investigation ourselves.

The investigators of the Claims Section will periodically visit the Offices of the Land Property Control Chiefs and the Land Central Offices. Only if called for will inspections of Restitution Agencies be made. The visits to the Offices of the Land Property Control Chiefs and the Land Central Offices will not be made for the purpose of routine checks, but rather for the purpose of detecting through discussion, observation and investigation those conditions hampering the Restitution Program which have not or cannot be remedied at Land Level. The extent of the investigations to be conducted by the Claims Section cannot be estimated at this time. This will largely depend upon whether major difficulties will develop in the field as the Program advances. It will also depend upon the type and the importance of complaints received by the Claims Section.

We intend to take precautionary steps in order to remedy conditions which may become substantial sources of complaints. One of these conditions may be the type of personnel employed with the Restitution Program. We will in the near future request, through functional channels, the following information on key personnel: Professional and political background and whether they have ever been in any way connected with the organization of properties. On the basis of this information, we will secure a determination of the standards required for personnel employed with Restitution authorities.

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As previously mentioned, a substantial part of the supervision of Restitution activities within the Laender must be conducted by the respective Offices of the Land Property Control Chiefs. We have determined during field trips that conditions vary in the different Laender, and the extent and type of control to be exercised must, therefore, largely be left to the discretion of the respective Land Property Control Chiefs. Our recommendations can, consequently, be given in general terms only. In employing measures of control and supervision, it should be borne in mind that the actual administration of the Restitution Program is in German hands. It is, therefore, essential that supervision and control are exercised in a manner which will cause the least possible friction between Military Government and German officials. Generally, it is recommended that in each Office of the Land Property Control Chiefs one official be made responsible for Restitution control. This official should maintain close liaison with the Land Central Office and should make periodical visits to the Restitution Agencies. It is also the responsibility of Military Government at Land Level to assist Restitution authorities to the largest extent possible in alleviating shortages and other conditions hampering the Program. Those conditions which cannot be remedied at Land Level, such as budget restrictions, etc., should be reported to this Office with the least possible delay. Reports made by the German authorities to Military Government should be subject to frequent spot checks in order to assure that correct figures are submitted.

It should also be borne in mind that the Offices of the Land Property Control Chiefs have not only administrative control over Restitution Agencies, but also over the flow of cases through the Restitution Chambers and the Oberlandesgerichte. If it is, for example, determined that an unusual large number of cases are held at a Restitution Chamber, a report on this condition should be made to the Legal Division at Land Level with a request that the matter be investigated and appropriate corrective action taken, when, and as, indicated. If this request is not complied with, a report should be made to this Office so that the matter may be taken up with the OMGUS Legal Division. *- alternative*

*Process*  
*Stop log jams*

Mr. Korfanty followed Mr. Loewenthal and proposed that the procedure in effect in Wuerttemberg-Baden for the handling of properties of Category I and II offenders where complete or partial confiscation is involved be adopted by the other three (3) Laender (Berlin Sector is not affected by the Law for Liberation). When the decision of a Spruchkammer ordering confiscation becomes final, either by denial of appeal or by expiration of the time limit during which appeal can be taken, it has been the practice of the Land Civilian Agency Head in Wuerttemberg-Baden to write off as a release 100 percent of the property of the offender involved, regardless of whether he is finally classified as I or II. The property continues to be held by the Land Civilian Agency Head, but only in his capacity as a representative of the Land Government and not in his Property Control capacity.

The reasoning behind this procedure is that Property Control responsibility for the entire property, whether wholly or partially confiscated, ceases when the decision of the Spruchkammer becomes final. Such responsibility cannot be continued by default action of the Land Government in not setting up machinery to take the properties over and use it for the purpose specified by law, namely, relief of victims of Nazism.

This procedure also makes it possible to dispense with the necessity of separating on Property Control records the confiscated portion of Category II offenders' properties from the portion to be returned to the owner.

Since the essential validity of this procedure was concurred in by all concerned, it was decided that such procedure would be placed into effect in all four Laender effective 1 January 1949.

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Mr. Korfanty requested that, in addition to writing off as releases 100 percent of such properties, a separate record be kept of the number of units and estimated value being held by the Land Civilian Agency Head so that this information could be shown as a footnote on the Property Control Statistical Report (MG/PC/6/F). He also stated that the decision in this connection would be confirmed by teletype, which would also give necessary detailed instructions as to the accounting requirements.

Mr. Roberts, of the Control Office, said a few words pertaining to the Occupation statute.

Mr. Cassoday closed the meeting, giving the latest developments in Berlin on pertinent matters.

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*Excluded from seizure  
by order of 1/20/48  
by order of 1/20/48  
by order of 1/20/48*

*Fred Blatt*

MILITARY GOVERNMENT GERMANY

Draft revision  
22 December 1948

US Zone of Occupation

Law No. 52 (amended)  
Blocking and Control of Property

Article I

Categories of Property

1. All property within the Territory hereinafter defined owned or controlled, directly or indirectly, in whole or in part, by any of the following is hereby declared to be subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government:

- (a) The German Reich, or any of the Laender, Gaue or Provinces, or other similar political subdivisions or any agency or instrumentality thereof, including all utilities, undertakings, public corporations or monopolies under the control of any of the above;
- (b) Revoked; \*)
- (c) The NSDAP, all offices, departments, agencies and organizations forming part of, attached to, or controlled by it; their officials and such of their leading members or supporters as may be specified by Military Government;
- (d) Revoked; \*\*)
- (e) All organizations, clubs or other associations prohibited or dissolved by Military Government;
- (f) Persons absent from or whose permanent residence is outside of the Territory hereinafter defined
- (g) All other persons specified by Military Government by inclusion in lists or otherwise.

2. Property which has been the subject of transfer under duress, wrongful acts of confiscation, dispossession or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise, is hereby declared to be equally subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government.

Article II

Prohibited Transactions

3. Except as hereinafter provided, or when licensed or otherwise authorized or directed by Military Government, no person shall import, acquire or receive, deal in, sell, lease, transfer, export, hypothecate or otherwise dispose of, destroy, or surrender possession, custody or control of any property: -

\*) Revoked by reason of amendment to Article I, para 1 (f)

\*\*\*) Revoked by reason of para 45 of General Order 1, as amended, issued pursuant to this Law.

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- (a) Enumerated in Article I hereof;
- (b) Owned or controlled by any Kreis, municipality, or other similar political subdivision;
- (c) Owned or controlled by any institution dedicated to public worship, charity, education, the arts and sciences;
- (d) Which is a work of art or cultural material of value or importance, regardless of the ownership or control thereof.

### Article III

#### Responsibilities for Property

4. All custodians, curators, officials, or other persons having possession, custody or control of property enumerated in Articles I or II hereof are required:-

- (a) (I) To hold the same, subject to the directions of Military Government and, pending such direction, not to transfer, deliver or otherwise dispose of the same;
- (II) To preserve, maintain and safeguard, and not to cause or permit any action which will impair the value or utility of such property;
- (III) To maintain accurate records and accounts with respect thereto and the income thereof.
- (b) When and as directed by Military Government:-
  - (I) To file reports furnishing such data as may be required with respect to such property and all receipts and expenditures received or made in connection therewith;
  - (II) To transfer and deliver custody, possession or control of such property and all books, records and accounts relating thereto; and
  - (III) To account for the property and all income and products thereof.

5. No person shall do, cause or permit to be done any act or omission which results in damage to or concealment of any of the properties covered by this Law.

### Article IV

#### Operation of Business Enterprises and Government Property

6. Unless otherwise directed and subject to such further limitation as may be imposed by Military Government:-

- (a) Any business enterprise whose property is subject to this Law may engage in all transactions ordinarily incidental to the normal conduct of its business activities within the Territory hereinafter defined provided that such business enterprise shall not engage in any transaction which, directly or indirectly, substantially diminishes or

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imperils the assets of such enterprise or otherwise prejudicially affects its financial position and provided further that this does not authorize any transaction which is prohibited for any reason other than the issuance of this Law;

- (b) Property described in Article I, 1 (a) shall be used for its normal purposes except as otherwise prohibited by Military Government.

#### Article V

##### Void Transactions

7. Any prohibited transaction effected without a duly issued license or authorization from Military Government, and any transfer, contract or other arrangement made, whether before or after the effective date of this Law, with the intent to defeat or evade this Law or the powers or objects of Military Government or the restitution of any property to its rightful owner, is null and void.

#### Article VI

##### Conflicting Laws

3. In case of any inconsistency between this Law or any order made under it and any German law the former prevail.

#### Article VII

##### Definitions

9. For the purpose of this Law:-

- (a) "Person" shall mean any natural, collective, or juristic person under public or private law, and any government including all political subdivisions, public corporations, agencies and instrumentalities thereof;
- (b) "Business Enterprise" shall mean any person as above defined engaged in commercial, business or public welfare activities;
- (c) "Property" shall include property rights of every description.
- (d) "Laender, Gaue or Provinces, or other similar political subdivisions" as used in Article I, Paragraph 1 (a) hereof, shall mean those existing on or before 8 May 1945 and shall not mean Laender, Provinces or political subdivisions established since that date.
- (e) "Permanent residence" shall mean the permanent place of abode of natural persons and the principal place of business or legal seat of collective and juristic persons.
- (f) "The Territory" shall mean the area constituting, on 1 September 1948, the Laender Bavaria, Bremen, Hesse, Wuerttemberg-Baden, Lower Saxony, North Rhine/Westphalia, Schleswig-Holstein, Rhine/Palatinate, Wuerttemberg/Hohen-zollern, Baden and Hansestadt Hamburg.

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Article VIII

Penalties

10. Any person who violates any provision of this Law or any General Order issued thereunder, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment not exceeding 10 years, or to a fine not exceeding DM 500,000, or to both.

Article IX

Effective Date

11. This Law is applicable within the Laender Bavaria, Bremen, Hesse and Wuerttemberg-Baden. It shall become effective on \_\_\_\_\_ 1948.

BY ORDER OF MILITARY GOVERNMENT:

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)  
Property Division  
Property Control and External Assets Branch  
APO 633  
Wiesbaden, Germany

TRIPARTITE CONFERENCE

held in Wiesbaden on 1 April 1949

THOSE PRESENT

- |                        |  |
|------------------------|--|
| Mr. Fred E. Hartsock   | Chairman, Chief, Property Div., PCARA Br., OMBUS |
| Mr. F. C. Adams        | Office of the Political Advisor                  |
| Mr. William G. Daniels | D/Chief, Property Div., PCARA Br., OMBUS         |
| Mr. J. A. Porter       | Chief, Claims Section, PCARA Br., OMBUS          |
| Mr. W. H. Burgess      | Chief, U.N.W. Section, PCARA Br., OMBUS          |
| Mr. Halley             | British Element, Minden                          |
| Mr. Suchard            | French Element, Baden Baden                      |
| Mr. Litman             | French Element, Mainz                            |
| Mr. Van Hensbryck      | French Element, Mainz                            |

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SUBJECT: Proposed Handling of Correspondence after 1 July 1949

The following agreed statement is prepared for approval of all concerned on handling of correspondence on Property Control and internal restitution after 1 July 1949:

I. CLAIMS (other than those covered under MG Law No. 59)

1. Claims arising in the American Zone pertaining to unidentifiable property or to general claims for damages.

Property Control Group, OMBUS or Central Filing Agency or POLAD, acknowledging receipt of inquiry states that, at present, no legislation for the handling of such claims exists, but that the General Claims Law is being considered and that, when such law becomes effective, wide publicity will be given thereto and procedure defined.

2. Claims arising in Berlin Sector pertaining to unidentifiable property or to general claims for damages.

Property Control Group, OMBUS or Central Filing Agency or POLAD, acknowledging receipt of inquiry states that, at present, no legislation for the handling of such claims exists, but that the General Claims law is being considered and that, when such law becomes effective, wide publicity will be given thereto and procedure defined.

3. Claims arising in British Zone pertaining to unidentifiable property or to general claims for damages.

a. Property Control Group, OIGUS or CPA or POLAD, acknowledges receipt of claim indicating that letter has been forwarded to, and future correspondence pertaining to claim should be made directly to the following address:

Property Control Branch  
Office of the Assistant Financial Adviser (Base)  
Zonal Executive Offices  
C.C.G. Minden  
64 Hq. C.C.G. (B.R.)  
B.A.C.R. 1

b. Property Control Group, OIGUS or CPA or POLAD, by form letter, forwards the original inquiry to the British Authorities, at the above address, asking them to take such action as they deem appropriate and communicate directly with the claimant.

4. Claims arising in the French Zone pertaining to unidentifiable property or to general claims for damages.

a. Property Control Group, OIGUS or CPA or POLAD, acknowledges receipt of claim indicating that letter has been forwarded to, and future correspondence pertaining to claim should be made directly to the following address:

Service Central du Controle des Biens  
de la Division de l'Economie Generale  
et des Finances, Baden-Baden, Germany

b. Property Control Group, OIGUS or CPA or POLAD, forwards original request, together with a copy of reply to inquiry to the French Authorities, at above address, for submission to proper adjudicating authorities so that those authorities may make direct reply to claimant.

5. Claims arising in the Russian Zone pertaining to unidentifiable property or to general claims for damages.

Property Control Group, OIGUS or CPA or POLAD, forwards the inquiry to the Soviet Military Administration in Germany as a matter pertaining to their jurisdiction and for treatment in accordance with current policy of Soviet Military Authorities. Claimant is advised that action is limited to written requests to the Soviet Military Administration for an investigation and protective action; that U.S. Military Government has no jurisdiction over claims relating to properties outside the U.S. Area of Control; and that, as regards property located in the Soviet Zone or Soviet Sector of Berlin, this office has no information concerning applicable laws and procedures for prosecution of claims.

II. CLAIMS (covered under 45 Law No. 80)

1. Claims arising in the American Zone pertaining to identifiable property.

a. Where petitions have been duly filed with the CPA, the receipt of said petition is acknowledged by the CPA and the petitioner informed of the name and address of the Restitution Agency to which his petition has been transmitted for further action and disposition.

b. When the inquiry involves a case in which no petition has been filed in accordance with Article 58 of Military Government Law No. 59 and Regulation No. 5 thereto, Property Control Group, OIGUS or CPA or POLAD, will, by form letter, state that the period for filing of petitions has elapsed; that claims therefore cannot be considered under the provisions of the law by the Agencies and Courts created for that purpose; and suggest inquiry concerning possible remedy under applicable German law in the German Civil Courts.

c. When the case involves a petition filed after expiration date of Military Government Law No. 59, Property Control Group, OIGUS or CPA or POLAD, by form letter, advises that such petition will be forwarded by the Central Filing Agency to the Restitution Authorities created under Military Government Law No. 59 for decision as to disposition and that advice of ultimate disposition by the Restitution Authorities will be transmitted at a later date.

2. Claims arising in Berlin Sector pertaining to identifiable property.

Property Control Group, OIGUS or CPA or POLAD, acknowledges receipt of inquiry, indicating address of filing agency as follows:

Treuhaender der  
Amerikanischen, Britischen und Franzoesischen  
Militaerregierungen fuer zwangsubertragenes  
Vermoege  
Berlin W 60, Huernbergerstr. 55/56

3. Claims arising in the British Zone pertaining to identifiable property.

a. Property Control Group, OIGUS or CPA or POLAD, acknowledges receipt of inquiry and notifies claimant of British General Order No. 10 and that claim should be submitted to the Central Claims Agency as follows:

Central Claims Registry  
Property Control  
Bad Menndorf  
188 HQ. C.C.O. (BR)  
B.A.C.R. 8

Inquirer is also informed that appropriate forms may be secured from the nearest British Consulate, or from Central Claims Registry, at the address indicated above. Advice is also given concerning requirements of notarization of such forms and certified authorizations of the claimant granting authority to an agent or nominee, which must accompany claim. Claimant is advised that future correspondence pertaining to matter should be made directly with Central Claims Registry at the above address.

b. Copy of reply to inquirer is attached to original communication and transmitted by Property Control Group, OIGUS or CPA or POLAD to Central Claims Registry, at the above address, with a request for appropriate action in accordance with current policies or regulations.

4. Claims arising in the French Zone pertaining to identifiable property.

a. Property Control Group, OIGUS or CPA or POLAD, acknowledges receipt of inquiry, furnishes a list of the Restitution Courts for proper filing of claim in accordance with location of property, and where claimant cannot determine competent Court having jurisdiction, advises sending of claim to following address:

Service Central du Controle des Biens  
de la Division de l'Economie Generale  
et des Finances, Baden-Baden, Germany

The above office will transmit the claim to the appropriate Court and advise claimant of the name and address of said Court. Notice of the claim will be given by the above office to the Ministry of Justice to take appropriate action for protection of claimant's interests thereafter. Future communications by claimants are to be made directly with the Court.

b. Property Control Group, OIGUS or CPA or POLAD, transmits copy of reply to claimant, along with claimant's communication, to French Authorities, as indicated in 4 a, with request for appropriate action.

5. Claims arising in the Russian Zone pertaining to unidentifiable property.

Property Control Group, OIGUS, or CPA or POLAD, forwards the inquiry to the Soviet Military Administration in Germany as a matter pertaining to their jurisdiction and for treatment in accordance with current policy of Soviet Military Authorities. Claimant is advised that action is limited to written requests to the Soviet Military Administration for an investigation and protective action; that U.S. Military Government has no jurisdiction over claims relating to properties outside the U.S. Area of Control; and that, as regards property located in the Soviet Zone or Soviet Sector of Berlin, this office has no information concerning applicable laws and procedures for prosecution of claims.

III. REQUESTS FOR INFORMATION pertaining to bank accounts and/or securities.

1. U. S. Area of Control

a. Property Control Group, OIGUS or POLAD acknowledges receipt of the letter, states that the inquiry has been forwarded to the Office of the Finance Adviser for investigation and that the Office of the Finance Adviser has been requested to reply directly to the inquirer.

b. Property Control Group, OIGUS or POLAD forwards the communication to the Office of the Finance Adviser with the request that they communicate directly with the inquirer.

2. British Area of Control

a. Property Control Group, OIGUS or POLAD acknowledges receipt of the letter, states that the inquiry has been forwarded to, and request made for investigation and direct reply to the inquirer by Office of the British Financial Adviser, whose address is as follows:

Property Control Branch  
Office of the Assistant Financial Adviser (Exec)  
Local Executive Offices  
C.C.G. Minden  
64 Hq. C.C.G. (B.R.)  
B.A.O.R. 1

b. Property Control Group, OIGUS or POLAD forwards original inquiry, together with a copy of reply to communication, to Office of the British Financial Adviser, at the address indicated above in III 2 a, for appropriate action.

3. French Area of Control

a. Property Control Group, OIGUS or POLAD acknowledges receipt of the letter, states that the inquiry has been forwarded to the Office of the French Financial Adviser at the following address:

Service Central de Contrôle des Biens  
de la Division de l'Économie Générale  
et des Finances, Baden-Baden, Germany

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b. Property Control Group, OIGUS or POLAD forwards original inquiry, together with copy of reply thereto to Office of French Financial Adviser, at address indicated in III B a, for appropriate action.

**IV. Inheritance**

**1. U. S. Area of Control**

Property Control Group, OIGUS or POLAD acknowledges the receipt of the inquiry, informs the heirs that the U.S. Military Government is no longer investigating such cases, that the matter is of a private nature, that they must appoint an agent or attorney in Germany to represent their interest.

**2. British Area of Control**

Property Control Group, OIGUS or POLAD acknowledges the receipt of the inquiry, informs the heirs that the British Military Government is no longer investigating such cases, that the matter is of a private nature, that they must appoint an agent or attorney in Germany to represent their interest. Reference is made in reply to application of provisions of Military Government Laws Nos. 52 and 53 (necessity for special licenses) with respect to any transfer, disposition or other transaction affecting property.

**3. French Area of Control**

Property Control Group, OIGUS or POLAD acknowledges the receipt of the inquiry, informs the heirs that the French Military Government is no longer investigating such cases, that the matter is of a private nature, that they must appoint an agent or attorney in Germany to represent their interest. Reference is made in reply to application of provisions of Military Government Laws Nos. 52 and 53 (necessity for special licenses) with respect to any transfer, disposition or other transaction affecting property.

**V. Ownership of property and decontrol thereof**

**1. U.S. Area of Control**

Property Control Group, OIGUS or POLAD acknowledges the receipt of the letter, informs the owner regarding the decontrol procedure, advises him to send a power of attorney to his appointed agent in order to decontrol the property.

**2. British Area of Control**

a. Property Control Group, OIGUS or POLAD acknowledges the receipt of the letter and indicates transmittal to competent British Authorities at following address:

Property Control Branch  
Office of the Assistant Financial Adviser (Ruse)  
Equal Executive Offices  
C.C.G. Minden  
St Hq. C.C.G. (B.E.)  
B.A.C.R. I

b. Copy of reply and original letter are transmitted for appropriate action and direct reply to claimant to British Authorities as indicated in V B a, above.

**2. French Area of Control**

a. Property Control Group, OIGUS or POLAD acknowledges receipt of the letter and transmittal of same for appropriate action to the French Authorities at the following address:

Service Central de Contrôle des Biens  
de la Division de l'Économie Générale  
et des Finances, Baden-Baden, Germany

b. A reply will be made by said office directly or through the Consulate of the nationality of the inquirer, in the French zone.

**VI. Questions pertaining to complaints and/or requesting routine information**

**1. U.S. Area of Control**

**a. Routine information and minor complaints**

- (1) If property is under control or has been under control, Property Control Group, OIGUS or POLAD forwards the inquiry to the LCAH of the area in which the property is located for investigation and a direct reply to the owner.
- (2) Property Control Group, OIGUS or POLAD acknowledges the receipt of the letter, informs the owner that the matter has been referred to the appropriate German authorities for a direct reply, and directs that all future correspondence regarding this matter should be sent to the address of the LCAH.

**b. Major Complaints**

- (1) Property Control Group, OIGUS or POLAD through OIGUS forwards a communication to the Central German Property Control Coordinating Committee for investigation and a report to Property Control Group, OIGUS.
- (2) Upon receipt of the report of investigation, Property Control Group, OIGUS answers the inquiry.

**2. British Area of Control (Major and Minor Complaints)**

a. Property Control Group, OIGUS or POLAD acknowledges receipt of communication, states that it has been forwarded for investigation and direct reply to

Property Control Branch  
Office of the Assistant Financial Advisor (Exec)  
Kanal Executive Offices  
C.C.G., Minden  
64 Hq. C.C.G. (S.S.)  
B.A.C.G. 1

b. Property Control Group, OIGUS or POLAD forwards communication, with copy of reply to inquirer, to address as indicated in VI 2 a, for investigation and appropriate action.

**3. French Area of Control (Major and Minor Complaints)**

a. Property Control Group, OIGUS or POLAD acknowledges receipt of the letter indicating forwarding of case for investigation and direct reply by French Authorities at following address:

Service Central du Controle des Biens  
de la Division de l'Economie Generale  
et des Finances, Baden-Baden, Germany

b. Property Control Group, OIGUS or POLAD forwards original communication, together with copy of reply thereto, to French Authorities as indicated in VI 3 a., above.

**VII. Export of Household and Personal Effects**

**1. U. S. Area of Control**

Property Control Group, OIGUS or POLAD acknowledges the receipt of the letter from the inquirer, forwards copy of press release and application forms, explains procedure for the export of household and personal effects.

**2. British Area of Control**

a. Property Control Group, OIGUS or POLAD acknowledges receipt of letter, states that communication has been forwarded for appropriate action and direct reply by, and that future correspondence regarding this matter should be made with:

Property Control Branch  
Office of the Assistant Financial Advisor (Ruse)  
Equal Executive Offices  
C. C. G. Minden  
64 Hq. C. C. G. (S. R.)  
S. A. C. R. 1

b. Property Control Group, OIGUS or POLAD forwards communication with copy of reply thereto for appropriate action to British Authorities as stated in VII 2 a., above.

**3. French Area of Control**

a. Property Control Group, OIGUS or POLAD acknowledges receipt of letter, states that communication has been forwarded for appropriate action and direct reply by, and that future correspondence regarding this matter should be made with:

Service Central du Controle des Biens  
de la Division de l'Economie Generale  
et des Finances, Baden-Baden, Germany

b. Property Control Group, OIGUS or POLAD forwards the communication with a copy of reply thereto for appropriate action to the French Authorities as stated in VII 3 a., above.

**VIII. Requisitioned Property**

**1. U. S. Area of Control**

a. Property Control Group, OIGUS or POLAD acknowledges the receipt of the letter, states that Property Control has no jurisdiction over property requisitioned by the U. S. Army, gives the address of the Real Estate Office at the appropriate Military Post, directs the inquirer to address all future correspondence regarding this matter to that office.

b. Property Control Group, ONGUS or POLAD forwards the communication to the appropriate Real Estate Office and requests a direct reply to the inquirers.

**2. British Area of Control**

a. Property Control Group, ONGUS or POLAD acknowledges the receipt of the letter, states that it has been forwarded for appropriate action and direct reply by, and that future correspondence regarding this matter should be made with:

Property Control Branch  
Office of the Assistant Financial Adviser (Exec)  
Zonal Executive Offices  
C.C.G. Minden  
64 Hq. C.C.G. (B.E.)  
B.A.O.R. 1

b. Property Control Group, ONGUS or POLAD forwards the communication to the British together with a copy of the reply and requests the British to further reply to the communication.

**3. French Area of Control**

a. Property Control Group, ONGUS or POLAD acknowledges the receipt of the letter, states that it has been forwarded to the following address, for appropriate action and direct reply, indicating that all future correspondence regarding this matter should be directed to same address:

Service Central du Controle des Biens  
de la Division de l'Economie Generale  
et des Finances, Baden-Baden, Germany

b. Property Control Group, ONGUS or POLAD forwards the communication to the French together with a copy of the reply and requests the French to further reply to the communication.

**IX. Inquiries of a Classified Nature**

Such inquiries will, in so far as they pertain to competency of Property Control, be channeled through Property Group, Office of the Economic Adviser, ONGUS, APO 742, U. S. Army.

**Note:** Wherever Property Control Group, ONGUS, Central Filing Agency or POLAD are mentioned herein the following addresses should be used:

Property Group,  
Office of the Economic Adviser, ONGUS  
APO 742, U. S. Army

Central Filing Agency  
Bad Nauheim, Germany

Office of Political Adviser (POLAD)  
APO 742, U. S. Army

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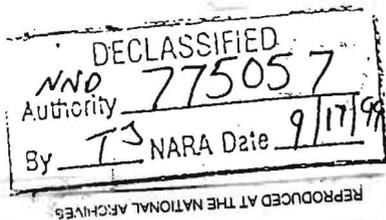
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Property Division  
Property Control and External Assets Branch  
APO 633  
Wiesbaden, Germany

MINUTES  
of the  
TRIPARTITE CONFERENCE

held in Wiesbaden on 13 and 14 January 1949

THOSE PRESENT

- Mr. Fred E. Hartzsch Chairman, Chief, Property Div., PC & EA, OMGUS
- Mr. Peter Roberts Control Office, OMGUS
- Mr. R. H. Stern Office of Finance Adviser, OMGUS
- Mr. W. C. Furst Office of Finance Adviser, OMGUS
- Mr. J. A. Porter Chief, Claims Section, P.C. & E.A. Br., OMGUS
- Mr. W. N. Burgess Chief, U.N.&N. Section, P.C. & E.A. Br., OMGUS
- Mr. Kelly British Element, Minden
- Mr. Buddicom British Element, Minden
- Mr. Caldecourt British Element, Minden
- M. Favereau French Element, Baden Baden
- M. Souchard French Element, Baden Baden
- M. Davost French Element, Baden Baden
- M. Lirman French Element, Mainz
- M. de Tascher French Element, Mainz



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Mr. Hartzsch opened the meeting at 1100 hours on 13 January 1949 with the following:

"The reason that this meeting has been called is twofold; first, there are numerous problems which arise in which there will be overlapping, as indicated by the first item on the Agenda, and we would appreciate very much an expression of views as to how certain problems arising in our Zone could be handled in your Zone; secondly, as you know, our present policy and instructions are that whenever we plan any new legislation or implementation, we should make every effort to exchange ideas with our colleagues in the other two Zones and, if possible, obtain uniformity, at least to the highest degree possible.

With these two objectives in mind, we drew up, in brief outline, the Agenda for this meeting. I notice a number of errors already; for instance, items 6 and 7 are really one item. In general, the topics given indicate various items which are in various stages of implementation in our Zone, which we would like to tell you about, and on which we would also appreciate your ideas. For example, the first item on the Agenda pertains to our Internal Restitution Law. Numerous problems will arise also with the Restitution Laws in your Zones, especially on the topics mentioned herein. Mr. Porter, who, I think you all know, is the Chief of our Claims Section, and is the man primarily responsible for carrying out and supervising the Restitution Law as it applies to identifiable property in our Zone. I will now ask Mr. Porter if he will briefly state the problems involved under the first three items."

Mr. Porter: I would like to make distribution of some material I am going to discuss. You will notice in the new Regulation No. 5 to our Restitution Law that we are holding to the date of 31 December 1948.

Question: I would like to know whether or not, from information that you gentlemen have, if you have received claims in your agencies which should have been sent to our Central Filing Agency, and whether or not any arrangements are being made to transmit them to the Central Filing Agency by 31 March 1949, as set forth in Regulation No. 5.

Mr. Kelly: So far as the British Zone is concerned, we have always forwarded any inquiries as soon as they have been received and immediately upon receipt of the copy of Regulation No. 5, I issued an instruction to Bad Nenndorf that we were in complete accord.

Mr. Favereau: We have not received it. We shall take the necessary measures in order to implement it through the French Consulate.

Mr. Porter: With respect to what I have called "Reciprocal Legal Aid", the question arose concretely, insofar as the French are concerned, when in restitution proceedings before the Courts in the French Zone they felt it necessary to come into our Zone to get some information which we could not give them because the property was not under control.

Question: Mr. Kelly asked whether or not a Court situated in the French Zone would have the right or authority to make any determination with respect to property in the American Zone?

Mr. Porter: I think this can be properly discussed under Venue, but it is inter-related with this subject too. I think perhaps we can come to grips with the problem if we realize that properties some times are located not only in the French or British Zones but may be dispersed among the three Zones, and that in some cases the main seat

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of the property may be in the British or American or French Zone while subsidiaries may be located in any one of the other Zones. Under general principles of law, jurisdiction might be exercised by the Court where the main seat of the property is located.

Mr. Lirman: In answer to Mr. Kelly, the question on Reciprocal Legal Aid arose definitely in the French Zone. At present, there is no agreement.

Mr. Kelly: I rather feel myself that we should endeavor to come to some accord on items (a) and (b) before we turn to Legal Aid.

Mr. Hartzsch: Asked Mr. Porter if he would discuss Venue first.

Mr. Porter: Agreed to this. Quoting Mr. Kelly - what Court is going to exercise jurisdiction where a property is dispersed throughout the three Zones?

Mr. Suchard: We have two different laws in the French Zone - it will be very difficult to execute a judgment rendered by a Court in the French Zone in the American Zone. If the bulk of the property is located in the American Zone, it will cancel the decision of the Court in the French Zone. We have two different types of legislation. We must have a special processing of every property which is located in the French Zone. This is perhaps not very logical.

Mr. Favereau: With respect to Enforcing of Judgments, I know that there is an administrative procedure and a judicial one. When you are speaking of judgments, it is only the judicial procedure. If you have an administrative decision, such decision must always be confirmed afterwards by a court judgment or order.

Mr. Porter: Suppose that an amicable settlement is worked out here with respect to a claim for restitution and the property involved is located not only in the American but in the British and French Zones. What validity, if any, will be given to that amicable settlement in the French and British Zones?

Mr. Favereau: The amicable settlement must be confirmed by a Court in the French Zone.

Mr. Suchard: I think there are two problems: Amicable agreements and judicial decisions. A decision rendered in the American or British Zones with respect to amicable agreements or court determination must be confirmed in accordance with the legislation in force in the French Zone. Otherwise, the court decision or the amicable agreement would impair the effect of our law. I think this is a difficult problem. First, we have two decisions that must be confirmed by two different Courts; second, because of the fact that there are two different laws, I do not think it possible to enforce in one Zone, a decision rendered in another Zone. This is so under Common Law principles. We can, however, perhaps agree on some measure of reciprocity.

Mr. Porter: I would like to see such reciprocity between the Zones.

Mr. Favereau: We must provide for a common execution procedure. We have admitted that the judgments rendered in the spoliation cases in the other Lands can be executed automatically in the French Zone.

Mr. Kelly: The main objection to any substantial measures of any reciprocity is that we shall have three different laws and if the claimants become aware of the fact that there is a general measure of reciprocity they are going to decide as to which one of the three Zones has the law most to their liking. I feel, however, that the matter has to be considered in connection with undertakings which possess assets in two or more Zones, and it seems to

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me, that a distinction should be made according to the nature of the undertakings. If, for example, the claim for restitution relates to an incorporated company possessing assets in two or more Zones, then, in my opinion, the appropriate place for the judgment is in the Court where the Company is incorporated. Where a judgment is given in relation to such Company in the American Zone, we in the British Zone would regard that judgment as effectively covering all the assets belonging to that Company in the British Zone. But, a different question arises in regard to the matter of the claim where an unincorporated partnership, or a private enterprise owned assets in two of our Zones. We would expect to have a claim submitted in the British Zone in relation to the assets in the British Zone and a separate judgment rendered. Any judgment given in the American Zone would only be regarded as evidentiary. I honestly feel that is as far as we can go in the matter of reciprocity in this particular matter.

Mr. Lirman: The expiration date to file a claim is different in the three Zones.

Mr. Kelly: There is a third point which I omitted just now. There might very well be a case where we have ascertained that there are assets in two or more Zones, as well as in the British Zone. A decision has been obtained in the other Zones, when we find that there is a third party who is interested or who has put in a claim in our Zone, whose existence was unknown in the other Zones. In our view, that claim would have to be processed by our judicial authority; I feel that the decision given in the other Zones could only be considered evidentiary.

Mr. Porter: Would that also apply to amicable settlements?

Mr. Kelly: Amicable settlements would be exactly the same because, in the main, we would expect that there would not be any third party, but if a third party should appear, we would also have to consider the decision given in the other Zone as evidentiary. Provided there were not a third party, we would enforce any amicable settlement; just as we would approve any decision given by a judicial authority in the other Zone.

Mr. Porter: From an administrative point of view, I would like to know, assuming that an amicable settlement had been rendered in the American Zone and there is no actual claim in the British Zone, would this be enforced in the British Zone?

Mr. Kelly: In the case of partnership or incorporated companies, it would be an incentive to the claimants to submit their claims to the Zone which is regarded as most favorable and we believe this would lead to objectionable consequences.

Mr. Favereau: I think we can decide that the Zone where the main seat of the company is located is competent, and if we choose this solution, the claimant can't put in his claim where he thinks the Law is more advantageous to him.

Mr. Kelly: I think there is a difference in our way of looking at the interests of owners of a company. If it is an incorporated company, the shareholders merely hold shares in the company and are not the owners, but in the case of a partnership, they have rights to the individual assets in the case we have under consideration. The claim in one case would be for the return of the shares of the company, whereas, in the other case, the claim would be for the return of certain buildings, etc. In my opinion, the claim of the first instance would be handled through the main seat of the company; in the other case, the claim should be disposed of on the basis of the location of actual assets and the law applicable at such location.

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Mr. Richard: I think that the problem of an unincorporated partnership isn't a difficult one because this is a juridical affair.

Mr. Kelly: The distinction I make is between corporations where the assets belong to a juridical person and the partnership where the shares belong to particular persons.

Mr. Favereau: Is your view based on German legislation?

Mr. Kelly: No, it is based on British law. I suggest that the distinction may be brought out by the fact that claimants in the case of an incorporated company would put in claims for so many shares or bonds in the company, whereas in the case of partnership, the claim would be for certain tangible and intangible assets. The adjudication authority in the case of a corporation would direct the registrar of the company to transfer so many shares into the name of the claimant, if the claimant was successful, and thereupon, the successful claimant would become the owner. We may suppose a case where a company named the "X" company is incorporated in the American Zone, and a claimant was successful in an action in the American Zone for the return to him of the shares in that company. The decision given in the American Zone would be effective because it would merely direct the registrar of the company to transfer so many shares in the company to the name of the claimant. I suggest that it would not be necessary to go to the other Zones. We would not enforce that judgment because the necessity did not arise.

In the case of the partnership, if you got a judgment and there were assets in another Zone, of necessity you would have to take your judgment to the other Zones to get enforcement, and I do feel myself, that in such cases we should have to say that a separate action must be brought in each of the other Zones and the successful decision given in the first Zone should only be regarded as evidentiary. For example, a third party might appear in that other Zone claiming one or more of the assets which have been alleged to belong to the successful claimant.

Another objection to enforcement would be that it would cause discontentment to British or other claimants. We might have a case where two factories were side by side in the British Zone; one would be returned according to the French Restitution law and one would be returned according to British law.

Mr. Hartzsch: I see no objection to that. Suppose that Henry Ford and the Austin Company own factories in England, and a decision had been made by an American Court. Thus the ownership of Ford in England might well go according to U. S. Law. Austin could, at the same time, be transferred under British Law.

However, I have another suggestion which I think supports Mr. Kelly. Take the example of a corporation called XYZ having three properties, one in each of our Zones, the head office being in the American Zone. The title to the plants involved is on the Grundbuch as XYZ corporation in the three Zones. As soon as the stock passes from Mr. A, who is the present owner, to Mr. B, who is the claimant under Law No. 59 in the American Zone, he owns the corporation and there is no necessity for changing anything on the Grundbuch, or other public records in the other two Zones. It is very much the same as if the stock were sold by A to B. However, when you get to private parties, it is different. If I have three houses, one in each Zone, and Mr. Jones appears and under Law No. 59 gets title in the American Zone, there has to be some special procedure for changing title in the Grundbuch in the three Länder and I think that needs more enforcement. The distinction Mr. Kelly makes between the two types of properties is logical and we would probably want to follow this in our Zone.

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Mr. Favoreau: We can enforce the judgment in the two other Zones by executory proceedings.

Mr. Porter: Regardless of our differences, I would like to try to work out, in the course of time, some mutually acceptable procedure for the enforcement of amicable settlements or judgments as rendered in the different Zones.

Mr. Kelly: I rather feel that the matters in Item No. 1 are very far reaching and you have supplied us with a certain amount of material here which I would like to consider. I, therefore, suggest that the matter be referred to a sub-committee, consisting of one member in each Zone, for further consideration.

Mr. Hartzsch: I fully agree that this item is far reaching and that it needs further study, but I was hoping to come out of this meeting with each party expressing an opinion, so that we may refer to the Committee suggested by Mr. Kelly, at least a consistent expression of opinion.

I believe we can sum up the problem as follows:

It is the British and American viewpoint that in the case of a corporation, the decision rendered in the Zone where the seat of the corporation is located, would be respected in the other two Zones.

FRENCH: Agreed.

Mr. Hartzsch: The opinion of this meeting is that this point is agreed.

Secondly, with respect to partnership property or individually owned property, the consensus of opinion of this meeting is as follows:

That a decision rendered in any Zone is only enforceable as to the property in that Zone, but the decision will be considered as evidentiary material in the other Zones where a separate action must be brought to determine title.

FRENCH: Agreed.

BRITISH: Agreed.

Mr. Hartzsch: At this point we have complete accord on the principles which I have stated.

Mr. Porter brings us a third consideration, namely:

Where a claim has been filed for all of a certain individual's property in our Zone and the other Zones also, but no claim has been filed in the British or French Zones, the question is, is it necessary for the person to file in the other Zones?

Mr. Kelly: My view is that that claim should be accepted as a claim but the decision to be accepted as evidentiary. This situation would never arise in the British Zone because, with respect to the property in the other Zones, that would have been passed on to the other Zones.

Mr. Hartzsch: I can conceive of the following: I am a claimant and I file a suit against Porter for his property which he took from me under duress. I file a suit in the American Zone. At the trial it is brought out (I assume the defendant appears) that properties are located in the three Zones. If he does not object to the Court's jurisdiction I assume that he cannot challenge the decision in the other Zones. If he does object, there is, of course, no doubt that a Court in our Zone cannot extend its jurisdiction to private property

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in another Zone, as it would have no jurisdiction. However, if the defendant submits to the jurisdiction of a Court and does not object to the inclusion in the complaint of properties located in another Zone, I feel the judgment should be given full force and effect in the other Zones.

The meeting adjourned for lunch, to reconvene at 1400 hours.

Mr. Hartzsch opened the afternoon session as follows:

This morning we had an agreed statement on two points, namely, reciprocity with reference to decisions rendered in corporate cases, and also in partnership and private ownership. The one type of case we overlooked this morning is the case where the seat of the corporation is in neither of the three Zones. It is our opinion that this type of case should be treated the same as cases of partnerships and individual ownership. I believe that the British concur and I am wondering if the French also concur.

British: That is true.

French: Agreed.

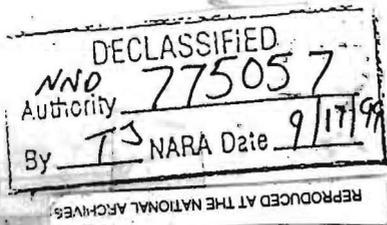
Mr. Hartzsch: I will very briefly review the case I have in mind; in other words, the case of Hartzsch vs Porter, which I mentioned this morning. I was Jewish and I had three houses, one in each of our three Zones. Mr. Porter, through duress, took those properties from me and I left the country. I sue Mr. Porter in Wiesbaden and I mention in my complaint that the three properties are located in the three Zones. I obtain a decision in my favor and, therefore, have not filed in the other two Zones. It is my understanding that the method of treatment of this particular case in the other Zones would be as follows:

I would first receive the property in the U. S. Zone, because that is where the jurisdiction is not in doubt. I understand that if I attempted to exercise my rights in the other two Zones, that I would have to file another suit in each of those Zones. However, the decision rendered would be taken into account. The only problem in my mind is, if the defendant, Porter, should not take any exception in the case in Wiesbaden and, therefore, since he subjected himself to the jurisdiction of Wiesbaden, I am wondering whether that would be taken into account as practically a closed matter in the other two Zones. Therefore, I would like just a brief statement from Mr. Kelly regarding this.

Mr. Kelly: If the claim has been received in any one of the three Zones it would be honored in the other Zones, but the claim must be in the British Zone by 31 December 1949.

Mr. Hartzsch: The British are willing to agree that if a claim is filed in our Zone, even if it is not specifically filed in their Zone, it would be accepted in their Zone.

Mr. Suchard: We have no Central Filing Agency in our Zone. Our claims are filed under Common Law and are filed in each Court where the property is located. It may be, for instance, that one claimant may file several claims only in the French Zone. The claim must be submitted by the claimant himself and that is why it is quite difficult for us to accept cases filed in the British or American Zones. It is quite understandable that in every case where the British and American authorities transmit any claim to us, we will transmit it to the proper authorities.



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Mr. Kelly: The point is this: Are the French authorities prepared not to bar a claim if the claimant has placed his claim in the British and American Zones by the due date?

Mr. Suchard: If it is only a question of the expiration date, we can meet it, but still we must insist upon the fact that in our Zone every claim must be filed with the proper authority.

Mr. Hartzsch: This sums up Item 1 a. Venue is the next subject.

Mr. Kelly: The intention of this Article is not too clear. We think the word "not" in Article II, second line should not be in there. Does this article refer to claims only, or to other types of property as well?

Mr. Hartzsch: See if I understand this clearly. First of all, I think it refers to all intangible claims. If for example, a mortgage which I hold in Wiesbaden is secured by a house in Stuttgart, since that is a secured obligation, Stuttgart, which is the location of the property would have venue. However, if the obligation were an unsecured note (I.O.U.) and I live in Wiesbaden, the jurisdiction is in Wiesbaden.

Mr. Kelly: That is a possible interpretation of this, but my view is that it doesn't say so.

Mr. Hartzsch: This matter will be held over in view of the possible interpretations of what is meant.

#### RECIPROCAL LEGAL AID

Mr. Hartzsch: Summarizes Mr. Kelly's remarks as follows:

This paper which Mr. Porter has prepared is, as far as British Property Control is concerned, acceptable and desirable but it needs concurrence of Legal.

Mr. Favereau: Agrees but would like to put one question. What do you mean under the term "Legal Aid"? Is it only a request for information or for consultation in legal subjects or investigation in finance or in the questions themselves.

Mr. Hartzsch: If the property is under control in our Zone and if a claim to that property is in the British Zone, we can set up a procedure whereby the German Property Control Authorities in the British Zone can contact the Property Control Authorities in the American Zone for information. Could the French do the same thing?

French: We are doing that at present.

Mr. Hartzsch: Summary

In cases where the property is under control, we can agree that the Germans in our Zone can contact the Germans in the French Zone directly. Where the property is not under control, we will have to effect a short-cut procedure whereby the plaintiff in the French Zone will not have to go through the Department of Justice, etc.

Item 2 - Possibility of a Uniform Restitution Law for the Three Western Sectors of Berlin.

Mr. Hartzsch: In Berlin our Law No. 59 was taken as a basis for discussion. There was substantial agreement obtained, except for two or three points of difference. We are interested to know if any of

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the parties here have heard of any efforts which have been made to whittle down those differences to see if we are any closer to agreement. The main differences in the last conference were apparently the following:

The matter of protection of purchasers in good faith;  
differences with regard to successor organizations;  
treatment of increases in the values of properties and profits.

Mr. Kelly: As far as I am aware, those points still remain the stumbling block.

Mr. Hartzsch: Summary

The difficulties which were apparent at Berlin still exist. The French are reviewing the entire matter and will prepare a paper in the very near future. It is our understanding that the British are also re-studying the entire situation.

Item 4 - French Proposal for the Revision of MG Law No. 52 which will be necessary after the promulgation of the Occupation Statute - General discussion as to proposed amendment to Law No. 52. Mr. Stern and Mr. Furst conducted this discussion.

Mr. Stern: I will discuss the following:

1. French Proposals to changes in Law 52 pursuant to the Conference in Paris;
2. Amendment to Article 45;
3. General Licenses that are in Existence in the Bizone which will be changed by the new Law;
4. Application of Law No. 52 and Law No. 63 to the Postscheckamt;
5. The application of Restitution Laws in phase three, or the securities disposition program.

Mr. Favereau: There is a very important consideration involved in Art, Sect. 1 (f) of revised Military Government Law No. 52.

Mr. Stern: On the Foreign Investment Moratorium - My general comment on the Paris Conference with regard to Law No. 52 is that we are forced on the American side to continue to enforce the Foreign Investment Moratorium. At the moment, consideration is being given to permitting persons outside of Germany who own property in Germany to sell that property to persons outside of Germany. The reason we are thinking of this is that the Foreign Investment Moratorium will not be disturbed. We are not permitting, of course, a person in Germany owning property even to donate that property to a person outside of Germany. Military Government Law No. 52 provides the only way either of these acts can be controlled. In each case, it will be necessary to obtain a license so that changes can be made in the Grundbuch.

In conclusion, I would be very pleased to receive any recommendations by Mr. Kelly or Mr. Favereau, but I believe as our Governments have approved it, we can deal with the problem by general licenses.

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Mr. Caldecourt: In Section 1 (f) of Law No. 52, I believe "or" was correct.

Mr. Favereau: Under the text proposed in Section 1 (f), a foreign owner whose permanent residence is outside Germany shall fall under Article 2 of Law No. 52, even if he has appointed an agent whose permanent residence is in Germany. This is quite contrary to recommendation 4 which was agreed upon by the Conference in Paris.

Mr. Stern: If the foreign owner did reside in Germany to manage the property he would be subject to Law No. 53. If he were subject to Law 53, his property would not have to be subject to Law 52.

Mr. Favereau: The French are in accord in principle and policy with the recommendations of the Paris Conference, consequently, the French delegation cannot approve the publication of this revised Law No. 52 in opposition to the position and policy of his Government. Let Military Government Law No. 52 stand as is until the position of your Government is announced.

Mr. Stern: Mr. Favereau's position is that the matter can be taken care of by Law No. 53, but it cannot. On the American side, we have held that we will enforce the provisions of paragraph 2a of Law No. 53 by means of Article 1, Section 1 (f) of Law No. 52. It should be remembered that Article 4, Military Government Law No. 52 is a general license to operate business enterprises in Germany. It is merely that we want to control those transactions which, at the moment, our Government's policy prohibit from taking place in Germany. These include the investment moratorium which we must abide by. As soon as the investment moratorium is lifted, as may be agreed by the six Powers at the Conference in London, we can deal with this matter very quickly by general license.

Mr. Suchard: The French point of view during the Paris Conference was that the French asked to be treated in the same manner as the German people and be allowed to manage their business in Germany in a like manner; to recruit personnel and to use and to dispose of their property located in Germany to the same extent as the Germans.

Mr. Stern: I do not believe we can agree to accord equal treatment to foreign property in Germany as long as they demand, at the same time, additional privileges merely by the fact that they are foreigners.

Mr. Favereau: In 1945 SHAEF passed a law which does not agree with revised Military Government Law No. 52 Article 1, Section 1 (f).

Mr. Suchard: There has been a lot said about the Foreign Investment Moratorium but I am convinced that the matter can be handled under Military Government Law No. 53. I know that Law No. 53 is more precise and shorter than Law No. 52. I think that we can issue some Regulations concerning Law No. 53 and by this achieve our aim. In my understanding, in the American and British Zones, Law No. 52 constitutes only an application of Law No. 53. The French proposal tends toward a logical conclusion. Law No. 52 provides for blocking of certain categories of property for reasons of restitution. The aims of Laws No. 52 and 53 are different and I think the application of the two laws must be different too. Law No. 53 must be modified in connection with the promulgation of the Occupation Statute and I think that the functions of foreign exchange should apply only to Law No. 53.

Mr. Kelly: I can't agree that all the prohibitions we wish to enforce are governed by Law No. 53. Among the persons whose investments we wish to control are corporations formed under the laws of Germany; in other words, persons inside Germany, and we do not con-

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sider them in the British Zone to be subject to Law No. 53. However, we block them under Law No. 52 because they are owned or controlled wholly or in part by absentee owners. Therefore, Law No. 52 gives us the only control at the moment to enforce our policy.

Mr. Suchard: I think, however, that Law No. 53 must be the law applying to foreign exchange. Taking into consideration the fact that we are speaking now of the investments of an absentee owner in connection with existing moratorium on investments, this enforcement will have to be controlled. If Law No. 53 does not give us such methods of control, it should be modified.

Mr. Stern: What controls do you have in the French Zone?

Mr. Suchard: There are a number of Regulations issued on this subject.

Mr. Stern: I should like to see them. What we are attempting to do at the present time is to align these two laws. The latest developments on the American side have been to enact legislation to effect the restrictions of Article I, Section 1 (f). The British position is that the two laws should be aligned on this point.

Mr. Suchard: I believe there must be a separation of the two laws. The French proposal tends to separate the two fields of application of the two laws.

Mr. Stern: What is the reason for the separation?

Mr. Suchard: First of all, it is for reasons of logic - to effect measures of control which will not be so restrictive as those contained in Law No. 53. As far as I am concerned I would like to propose to make Law No. 53 more strict. This should be done with the revision of Law No. 53, which is planned for the near future. Then control of Allied property will be divorced from the application of Law No. 52, except for the restitution of duress property and this is covered because we have in the French and American Zones laws providing for it.

Mr. Furst: If the argument of Mr. Suchard were carried out, it would mean the elimination of the revised Law No. 52 to which we cannot agree. It is our intention that the two laws be aligned so that they say the same thing about the same subject.

Mr. Caldecourt: Since your problem (in the interim period before the Paris Agreement is accepted) revolves around the words "permanent residence", and since the absence of those words in the past has not embarrassed the American and the British in practice we might reach agreement by omitting from paragraph 1 (f) the words "permanent residence".

Mr. Suchard: Agreed.

Mr. Stern: I cannot agree. I do not think it is the position of the French. I am of the opinion that our disagreement centers around the word "absent".

Mr. Furst: All these interpretations will lose their force after the adoption of the Occupation Statute when the German Courts will again have full jurisdiction. Therefore, we would like to write Law No. 52 in such a way that we do not need interpretations and you do not need interpretations. If this is a point that you have to take up with your Government, I think it would be futile to go on with this discussion today.

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Mr. Favereau: I would like to know why this law must be amended. Our position is that it should not be amended because it is contrary to the decision taken by the Conference in Paris. I am of the opinion that it would be better to have a general license rather than an amendment of the law. With the exception of Section 1 (f), I am in agreement.

Mr. Kelly: We must defer our consideration of Law No. 52 until our three Governments have declared their will on the recommendations of the Paris Conference.

Mr. Stern: I would merely like to state that on 15 December at a meeting of the Allied Bank Commission, the representatives of the three Zones agreed on the principles regarding Law No. 52 and stated that Section 1 (f) be included. I would like to recommend that we arrange a meeting between the Finance Advisers and the Property Control Advisers to discuss this relation between the two laws and whether or not we should take into account the recommendations of Paris at this time.

Mr. Kelly: Agreed.

Mr. Favereau: Agreed.

Mr. Suchard: Until now we have only discussed Section 1 (f) of Law No. 52 but I think there are some other provisions of this law which should be discussed. (It was suggested that this be done at another meeting.)

Mr. Stern: I am going to delete the discussion on Amendment of Article 45 of General Order No. I.

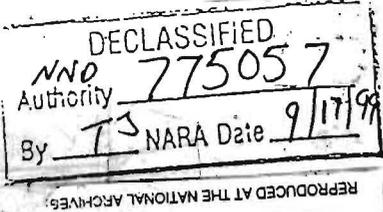
With regard to the internal blocking situation: Foreign owners accounts must be blocked under Law No. 52, Article I, Section 1 (f). Likewise, we must block the property of those persons who are affected by Article 26 of the Third Law of the Currency Reform. I will not go into details concerning those persons whose property was blocked because of Nazi reasons because we have the general information that the accounts of persons in Germany in the Postscheckamt system were relatively very small. We are of the opinion that certain provisions of Article 1, Section 1 (f) should be made applicable to the Postscheckamt and its accounts which are affected by Article 26 of the Currency Reform and, therefore, Law No. 52 should be made applicable to Postscheckamt accounts.

Mr. Favereau: Mr. Davost will look into the matter and we will discuss this at some other time.

Mr. Stern: One more matter - phase three of the Securities Program. There are four phases, which are:

1. External Restitution;
2. Recognition of Title and Return of Securities to Persons not Subject to Law No. 5;
3. Internal Restitution;
4. This is still up in the clouds. (We are going to discuss this in Minden)

In phase 3 we have the following problem which we would like to solve with you because we feel you will have the same problem.



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Under phase 3, a person in New York makes application to us that he owns securities in Germany. He states that he owned those securities on 1 September 1939. That generally precludes any question that they are subject to external restitution under phase 1, but when it comes to a question under phase 2, we do not know whether that person did not acquire those securities between 1933 and 1939, under duress, from someone in Germany. We would like to ask the experts on the Restitution Law, how we can solve that problem.

Mr. Porter: That is a matter for the Restitution Agencies and Courts. We are not involved.

Mr. Hartzsch: Our position is as follows: We are now making a master list of securities and have issued instructions to the Central Filing Agency that all securities claimed will be recorded on this list; anything which is on that list will be retained here until the restitution case is settled.

Do the French and British contemplate such a procedure?

Mr. Kelly: We have supplied complete lists of claims to securities (as to which the expiration date was 31 December 1948) which are being circulated with the idea of trying to find out which securities are the subject of claims.

Mr. Hartzsch: Summary: The question was asked "What steps are being taken to safeguard or prevent the possibility of securities subject to Internal Restitution from being transferred out of the country before a final adjudication has been made under restitution procedure?" The answer is that our procedure at the Central Filing Agency provides for a master list being made of all claims of securities under Law No. 59. The intention is that this list will then be compared with the master list which the Finance Division has and where any of these securities are found on the Finance list, they will be held in Germany until a final adjudication under the restitution procedure has been made.

The question was raised as to what is being done in the other two Zones to meet the same problem. Mr. Kelly stated that a similar procedure is being used in the British Zone. To accomplish this they have moved forward the deadline for filing claims to securities under the Internal Restitution procedure to 31 December 1948. We are further informed that in the British Zone their list has already been completed and is now in the process of being compared with the master list. Mr. Kelly and I have agreed that we will exchange lists in both Zones.

We now ask if the French have any similar procedure.

The French state that it is a new problem for them and at a meeting next Monday, 17 January, in Minden, they will further discuss the problem after Mr. Davost has had an opportunity to check. We are informed that the French implementation to Ordinance No. 120 provides specifically that any claims for foreign securities under their Internal Restitution Law must be presented before 31 December 1948 to their Central Foreign Securities Office. Mr. Davost will check to see if a master list has been, or can be prepared and if so, they will be willing to exchange such a list with the other occupying Western Powers.

The meeting adjourned to reconvene at 0900 hours the following morning.

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Mr. Hartzsch called the meeting to order at 1000 hours, 14 January 1949, with the presentation of Item No. 3 on the Agenda, "Present position of each party on the disposition of Reich Property". He briefly indicated how we stand at this time.

I have already gone over the entire subject with our British and French colleagues at one time or another. Since that time there has been very little change, except that we have made a few improvements in our draft. Basically the paper provides that all industrial and commercial and similar property go to the various Laender. Certain properties, which are necessary for the proper functioning of a Central German Government, will be transferred to such Government when formed. Where a corporation is involved which may have been owned by one or more Lands, and where the assets of this corporation are in the three Western Zones, the ownership stays exactly where it is. Where a corporation has its main office outside of the specified area, our paper provides that there shall be a re-organization of the part of the corporation which is in our specified area. Works of art which are in the nature of items of national interest or heritage will be reserved for the Central German Government, when formed. We also provide that any trade union or cooperative organization property which may be in the name of the Reich and which is not already, or which may not already have been taken care of under Control Council Directive No. 50 and M. G. Law No. 58 shall go to the Land where located. We also provide that any property belonging to a religious or charitable organization which may be in the name of the Reich and which also has not been distributed under C. C. Directive No. 50 and M. G. Law No. 58 shall be turned over to the Land where located. We also provide that as far as movable property is concerned, such as trucks or barges, that they go to the situs where they are normally located. This may be in another Land than where the head office of this organization is. If the normal situs is not in the specified area, the above mentioned rule does not apply. In such an instance, the Land in which this property is presently located would have the beneficial use of this property by order of Military Government.

According to this paper, we also dispose of cash securities and monetary claims. Certain properties are exempted from this paper, such as properties of the iron, steel and coal industries. These are covered by M. G. Law No. 75. The specified area is defined as the three Zones, but we list it Land by Land.

That, briefly, is the entire Reich paper. It is our understanding that at this point, at our level, the British are in entire accord, and I believe I understood that Mr. Favereau was also in accord.

I might explain one other provision which we have in this paper, which I think is important, and which I overlooked. That is the case where a corporation might be owned by various Laender in our three Zones and also by one of the Laender outside of our three Zones. In such an instance, the Laender in our three Zones will divide the ownership of that portion owned outside of the three Zones, in the same proportion to that which they now hold as between themselves. For example, if 50% of a corporation is owned by a Land outside the Trizonal area, and 50% is owned by various Laender in Trizonia, for instance, 20% in Hesse, 20% in Baden-Baden and 10% in Minden, the corporation would be re-organized and each of the Laender I mentioned would receive the same proportion of the other 50% which is located outside of our three Zones. In other words, they would each retain their relative voting strength.

Mr. Kelly: First of all, I should like to know whether in the type of case you have referred to, the whole of the assets of the company are in the specified area, or is it a case where some of the assets are outside.

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Mr. Hartzsch: This paper only pertains to physical properties located in the American Zone and gives preference to any properties located in the three Zones. I would like to tell you, before we throw this question open to discussion, exactly where this paper stands at the present time.

I have just returned from Berlin and the paper has received almost complete approval in Berlin. It is now being circulated for signatures of the various Division Directors for concurrence. We would like to obtain tripartite approval if possible for a number of obvious reasons. In the first place, we are anxious to have in any of our legislation tripartite approval, and in the second place, there is favored treatment given to the other Laender and we are, therefore, hoping for reciprocity. I would like to know if Mr. Favereau has had sufficient time to tell me what the French position is, at least with reference to the general principles of this paper?

Mr. Favereau: I haven't had quite enough time to study the paper. As I tried to indicate at the last meeting, we are completely in agreement with preparing a paper to dispose of Reich property. Naturally, as we indicated in our discussion with Mr. Parker, this draft brings up a number of problems under Property Control.

Mr. Hartzsch: Do you feel that you might be in a position within a month?

Mr. Favereau: It is possible that I will receive the answers from the Laender within two weeks, after which I want to have a general meeting of the French in order to make our last correction of the draft. Mr. Davost or Mr. Suchard might have a copy of your draft.

Mr. Hartzsch: I think it would save time, in view of the fact that you don't have your position crystalized.

Mr. Porter: I think it would be best.

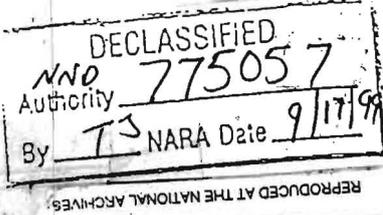
Mr. Hartzsch: We realize that the paper covers more properties than are under Property Control - Reichsbahn, Reichspost, etc. In fact, this paper also disposes of all property belonging to the Laender in the American Zone. It is my opinion that if everything goes right that a paper almost exactly like the present one will be accepted in the American Zone within the next two months. It is for that reason that we are extremely anxious to obtain your views at an early date, and yet we don't want to be in a position of requesting you to extend yourself so as to make it impossible for you to give the matter careful consideration.

Mr. Favereau: I hope that I will have all of the answers before the end of the month so that it will be possible to make a summary.

Mr. Hartzsch: This draft which I have, has already been modified by a 12 January draft, a copy of which I do not have. It is for this reason that I cannot circulate this draft. However, I can state that the basic principles in every point in the last draft are the same in this draft, with one or two exceptions.

Mr. Favereau: We have the November British draft. I should like a copy of the American draft.

Mr. Hartzsch: I will have some typed and will send a copy to you within the next week. Mr. Daniels will bring a copy of the last draft from Berlin. I thought that it would be better if we had the exact draft that was being approved. In other words, although this draft is now being circulated, if there are some minor changes necessary to obtain concurrence of a Division, such minor change will be made. I promise you that as soon as that draft is received by us, we will make sufficient copies. It might even be advisable, rather than to trust it to the general mail, to send it to you by courier.



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Mr. Kelly: Discussed a modification of Article 2 of the British Draft (Laender as Trustees).

Mr. Hartzsch: Summarizing: We have been informed of a specific inclusion in the British draft of ultimate owners of certain types of buildings formerly belonging to the Reich. However, it is our position that until we get a definite governmental decision as to the method of disposition, we prefer to leave our paper in its general terms because then we will be free to treat it any way we are directed.

Mr. Favereau: I wonder if we can't take the following position: Turn Reich-owned properties as of a certain date over to trustees as Mr. Hartzsch has suggested.

Mr. Hartzsch: All properties formerly owned by the Reich which were used for nationwide services would be put into this category, and then reduced as desired, either by the Occupation Powers or the Germans under the powers granted them.

Mr. Kelly: I will obtain the views of our Legal Office.

Mr. Hartzsch: On the question of normal situs - I agree and think that we need definitions.

We had in mind covering such implementation under Article 19, paragraph 26, I think, under which Military Government may issue such regulation; we felt that we could take care of such things under that paragraph rather than have a long list of definitions except in the case of (a) and (b) specified already.

Mr. Kelly: Discussed modification of Article 15.

Mr. Hartzsch: Summarizing: Assuming that the basic principles and spirit of the November 1948 draft of the Reich paper are carried out in the present draft, it is my understanding that the British position is that they are still in complete accord, with minor reservations, and that Mr. Kelly will discuss with the appropriate interested British Divisions the new method proposed in the present draft of transferring the properties to the ultimate recipients, namely: the method of using a Trustee device. It is the opinion of Mr. Kelly that by using the Trustee device, we were to some extent proscribing the properties which will go to the new Central German Government. However, it was agreed that a careful review of the new draft would be made, and Mr. Kelly states that if the matter was properly taken care of, he would, (although he personally does not like the Trustee device) at least see that it was given careful consideration.

As for the French position: The entire question is still under study, and possibly, during the next month they will obtain an expression of opinion, if possible, paragraph by paragraph or topic by topic.

The meeting adjourned for lunch to reconvene at 1400 hours.

Mr. Hartzsch called the meeting to order at 1400 hours with the presentation of Item 5 on the Agenda, "Possibility of coordinating plans for a German Central Property Control Coordinating Committee to eventually take over Property Control supervisory functions".

The only point we have here is to tell you what we have done in this field, and of our hopes. We have organized in our Zone a German Central Property Control Coordinating Committee. The four Land Civilian Agency Heads, that is the four Germans in charge of each of our four Laender, comprise the Board of Directors. This

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Committee will have under it a permanent staff of approximately 20 people. It will take the place of my office here. The only Property Control responsibilities which they will not have will be those of a confidential or classified governmental nature. During the next six months (we have already had one meeting) we will have frequent meetings. The purpose of these meetings is to go over all our files and records, and to teach them our methods of doing the necessary work involved with Property Control. The type of properties that will remain under control after 1 July 1949 will be mainly duress properties and, possibly, Reich properties, but I am hoping we will not have the Reich. In addition to supervising and coordinating the Property Control procedures in the entire American Zone, it will be their duty to make recommendations, which they deem desirable, to Military Government. The liaison with Military Government will be with one of General Clay's Advisers. On 1 July 1949 we will turn over all of our records and files, with the exception of classified material, and we will be out of business.

We were wondering if at a later time, the other two Zones, (after they determine the right time to get out of business) would be interested in such a scheme and whether they care to comment at this time.

Mr. Kelly: We definitely intend adopting a similar plan by the formation of a committee of this nature. The extent of our turnover to this German Committee we do not contemplate will be anything so complete as the turnover you envisage. We feel that there will be a considerable field which will remain under the responsibility of British Property Control, as provided by the Occupation Statute, and will necessitate the retention of a small staff of British Property Control personnel at Headquarters for this purpose, and also for the purpose of liaison with the German Committee. On the subject of the composition of the German Committee: We are of the opinion, and we hope to adopt your plan, namely, have a Committee consisting of the head of the German Property Control in each Land, but we do not contemplate that they would be in the nature of a committee which would be meeting frequently, and we do not anticipate that there will be any call for them to have a staff anything like what you mention - 20. The question of the staff is very much wrapped up with the question of how many of our files would be turned over. We haven't gotten to the stage where we can say what the probable number will be.

Mr. Hartzsch: Would it be possible, when this Committee of yours is formed, to have some sort of a liaison with our people?

Mr. Kelly: I certainly am all in favor of liaison, but I think that fusion would be undesirable.

Mr. Suchard: The Property Control organization in the French Zone is considerably different than that in the British and American Zones. This difference exists also in the procedure for effecting Property Control. We don't have, either from the standpoint of the French authorities or the German authorities, a Central Filing Agency; the only thing we have are files at Baden-Baden. We have already realized, in part at least, the American idea, which is, on the part of the Occupation Authorities, to have only an advisory Council. Nevertheless, I notice one difference between the American plan and the actual French operation which is that we do not have a Central German Coordinating Committee and the organization of such a committee has not yet been contemplated.

Mr. Hartzsch: Do you feel that such a plan might, at a later date, be considered.

Mr. Suchard: That question should be tied in with the question of the Occupation Statute. At the present time, we are exchanging voluminous correspondence. We are perfectly willing to agree that this correspondence should be made directly between the German organizations, but that does not necessarily mean a coordination on the policy level.

Mr. Hartzsch: We would like to have coordination on the executive level.

Mr. Kelly: Will you regard that German Committee as being directly under your control?

Mr. Hartzsch: They will be directly under our control and will have to render reports every month.

Mr. Kelly: Will that organization be located here?

Mr. Hartzsch: No, Stuttgart. The main category of properties which they will be managing will be the duress properties.

Mr. Kelly: Will this German Committee assume entire responsibility for the Central Filing Agency?

Mr. Hartzsch: The present plan is to transfer the agency, but not on 1 July 1949, especially if one or two things happen. For example, if a General Claims Law is passed and if the claims are to be filed at the Central Filing Agency, it is our present thinking that as long as claims are to come in, we shall keep our two men who are over there now, to supervise the program. If our Law No. 59 is made applicable to our Sector of Berlin, and if it is decided that claims must be filed at the Central Filing Agency, here again we would retain our supervision up to the deadline. In any event, that is one of the smaller parts of our problem because we only have two Americans supervising 85 Germans.

Mr. Kelly: So long as you have American supervision at the Central Filing Agency you can't turn over control to the German Central Committee.

Mr. Hartzsch: That is true and we will not transfer responsibility for the Central Filing Agency as long as we have American supervision there.

Mr. Suchard: I have a question regarding lack of information on looted Allied goods having existed in Germany before 1939. We have a very voluminous correspondence on this subject, and in the French Zone we do not have a Central Filing Agency. I would like to know whether the files which are transmitted by or to us by Mr. Hartzsch and Mr. Parker are at the present time examined by American and British authorities?

Mr. Hartzsch: I am a little bit confused. Are these goods looted from an Allied country and brought to Germany by force?

Mr. Suchard: No. It is property which existed in Germany in 1939 - property which is affected by Law No. 59.

Mr. Hartzsch: Any information we send on duress properties is always examined by American personnel here.

Mr. Suchard: As long as this correspondence is examined by American personnel, we are perfectly willing to accept it and forward it to the proper authorities in the French Zone.

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Mr. Hartzsch: Item 6 on the Agenda, "Discussion of a problem presently before the Allied Bank Commission involving interpretation of the effect of M.G. Law No. 63 and those Nazi and Reich Funds which were used in the operation of Labor Union and cooperative properties disposed of pursuant to Control Council Directive No. 50". Item 7 on the Agenda, "Disposition of Funds of Properties Transferred Pursuant to Articles II, III and V of Control Council Directive No. 50". We have this question which, I believe, has already been taken care of by our French colleagues. However, in our Zone, and I believe in the British Zone, no disposition has been made of liquid assets of NSDAP properties. In our two Zones we have not solved the problem and we are in the following position: On numerous occasions American policy has been stated to be that the liquid assets of labor unions and consumer cooperatives would be transferred to such organizations along with the property. I understand that part of this problem was taken care of, at least in the case of some cooperatives and labor unions in the British Zone, by loaning the funds to those organizations, in trust. We should now like very much to be able to fulfil our commitments to the labor unions and consumer cooperatives by attempting to have such funds transferred to them. To accomplish this, the matter was referred to the Allied Bank Commission, because there is some question as to whether or not some or all of these funds are wiped out by Law No. 63. However, when the matter was brought before the Allied Bank Commission, the other members stated that they were not familiar with the problem and, therefore, did not care to make a decision. I understand that the British representative of that Committee has now been told of the problem. I am hoping that, with this background, the French Representative can be acquainted with the problem, and we would appreciate any assistance in having the entire matter solved because, even though the problem does not exist in the French Zone, it is a real problem in our Zone. Therefore, we would be very appreciative in having the matter brought forward.

Mr. Davost: The matter will be drawn to the attention of the French delegate on the Allied Bank Commission.

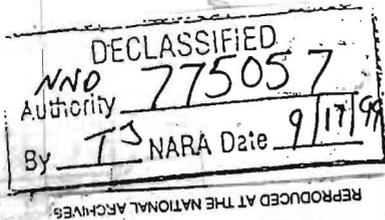
Certain organizations have been able to re-take possession of their goods under Ordinance No. 120. Those cases have, however, been rather rare.

Mr. Suchard: I believe the problem is the same in the three Zones.

Mr. Kelly: The Allied Bank Commission passed a resolution in which they requested that a joint paper from the three Property Control organizations should be prepared, indicating the size of the problem and also recommendations as to disposition of these funds. The difficulty which we have in this matter is that exactly the same arguments which can be brought forward in support of labor unions and co-operatives, can also be brought forward in support of claims of various religious and charitable organizations' funds which were taken away by the Reich, or in the case of confiscated properties taken from the Poles. That particular problem is being considered now. In Berlin, the confiscated Polish property amounts to 26,000,000 marks.

Mr. Hartzsch: I have two or three observations to make. In the first place, I was under the impression when we were in Baden-Baden that these funds were already being used in the French Zone for rehabilitation of Nazi persecuted people. Is that correct?

Mr. Suchard: It was intended in the French Zone to accomplish this under Law 164 which provides that the funds will be placed in a fund for the indemnification of persons whose property was confiscated by the Nazis. This fund is to be augmented by the fines imposed on people in denazification cases and like sources. No



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actual steps have been taken because these funds were blocked and largely eliminated by Law No. 63.

Mr. Hartzsch: Then the French problem is identical to ours except that they have decided, if they get the funds, how to use them. Our problem is that when we get the funds we intend to return labor union funds and cooperative funds to labor unions and cooperatives. The question as to whether or not the funds are in existence is a common question.

Mr. Suchard: The Ordinance in the French Zone does not take in the funds of the Nazi organization but only the revenue from the physical properties. I think we can agree that this fund is being augmented by the funds realized from the sale of the physical assets of the Nazi party. As far as the funds of the Nazi organization is concerned, I think they have been liquidated.

Mr. Hartzsch: Summarizing: The American side was not informed (although requested from Berlin to discuss this question) that the matter had formally been discussed and, therefore, does not have sufficient information to continue. If the decision has already been made that the funds are wiped out, then I think this question is academic and the answer is that our commitment to labor unions and consumer cooperatives cannot be kept. I understand, however, that there is still some hope of obtaining some sort of a decision from the Allied Bank Commission and it is recommended that a joint paper be prepared presenting the situation. I am anxious to have the Committee, which we were talking about earlier, prepare such a paper at the earliest possible date. Could we agree, at this point, to have this matter explored jointly and prepare such a joint paper?

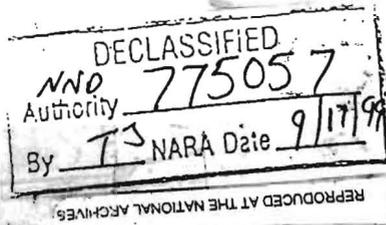
Mr. Kelly: As far as we are concerned, we have submitted the complete report on this matter to Sir Eric Coates and until such time as we get instructions from him to proceed, I can't undertake to go into this matter any further. But, I would say that what the Allied Bank Commission asked for were not joint recommendations, they merely wanted factual information. I have the minutes with me.

Mr. Hartzsch: We have also presented factual information to our representative but we never heard what the outcome was, except that all of the delegates were not briefed or familiar with the problem. The Minutes which Mr. Kelly was kind enough to give me state as follows: "As information was available only for the U. S. Zone with regard to the size of the funds and procedure for operation of the properties, the Commission agreed that the U. S. member should inform the OMGUS Property Division that consideration would be given to the question when a joint paper was submitted by the Property Control Divisions of the three Elements". Therefore, I think the recommendation for a joint paper is in order. Mr. Kelly, do you still feel that until you hear from Sir Eric Coates you can't proceed any further?

Mr. Kelly: Sir Eric Coates attended that meeting.

Mr. Hartzsch: Have the French submitted similar information to their Finance Adviser?

Mr. Suchard: As far as the French Zone is concerned, each Province has been requested to draw up a plan for disposition of the funds of Nazi organizations. This plan was to take into account not only tangible and intangible property, but also the liquid assets. It will be an extremely detailed plan, which could subsequently be co-ordinated in detail with the British and American recommendations and turned over to the Allied Bank Commission.



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Mr. Hartzsch: I wonder if the French would be willing to join with us and prepare a paper for our two areas?

Mr. Suchard: Yes.

Mr. Kelly: I will not say that we will not join in.

Mr. Hartzsch: Then we can say that when the British receive instructions they might join our venture. At the present time we can leave it there, but time marches on and, frankly, we are extremely anxious not to lose any more time, as this question has been held in abeyance and neglected ever since currency reform.

Mr. Suchard: If I understand correctly, measures have been taken in the American and British Zones for the disposal of union and cooperative properties under Directive No. 50, both in connection with tangible and intangible assets. I would like to have confirmation of this.

Mr. Hartzsch: Yes.

Mr. Suchard: In the case of liquid assets?

Mr. Hartzsch: Only with respect to liquid assets acquired since currency reform. These have been transferred to labor unions and consumer cooperatives.

Mr. Hartzsch: Summarizing: We are all agreed that a joint paper should be prepared, and the British will join in such a project when further instructed. I will also explore the matter.

Item 8 on the Agenda, "Freeing of Blocked Properties for Settlement Purposes; General License No. 9 to Military Government Law No. 52". This question arises because of the following: I have received the following communication from the (O.E.A.) Office of Economics Adviser and Food and Agriculture Group, OMGUS, which I have been requested to discuss with you.

"1. General License No. 9 in the U. S. Zone has permitted the State Land Settlement authorities to draw on blocked properties for settlement purposes, as long as the properties are to be utilized under the terms of the U. S. Zone Land Settlement and Land Reform Law of September 1946. No comparable permission to draw on blocked properties for any settlement purposes has been granted in the British Zone. This raises several points;

a. The Land Settlement and Land Reform Law in the U. S. Zone concerns primarily agricultural settlements. The fact that blocked properties can be drawn on under General License No. 9 only if given out to applicants who qualify under this U. S. Zone Settlement Law means that some types of small subsistence settlements, settlements for urban industrial workers, and similar non-agricultural settlements cannot be made on lands that are now blocked. This is a significant limitation because of the rather large area of blocked property that could be used for urban and industrial settlements;

b. The problem is acute in the British Zone because of the absence of any provision for drawing upon blocked properties for settlement purposes. Even if a license comparable to General License No. 9 were introduced in the British Zone, it would still prohibit settlement on the large area of land owned by the coal mining companies and now blocked.

2. Have any discussions with the British authorities regarding the reconciliation of US and UK policies and laws taken up the matter of General License No. 9 and its extension to the

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British Zone? This Group has received several requests from the German Land Settlement authorities that General License No. 9 be expanded to permit settlements on blocked properties if the settlement is undertaken under the terms of the Reich Settlement Law of 1919 or under the still valid "Small Settlement Laws" (Kleinsiedlungsgesetze) or under the "Small Garden Laws" (Kleingartengesetze). It has also been urged that a uniform treatment in this regard be worked out for the Combined Bizonal Area.

3. It is urged that this matter be taken up with the responsible British authorities in any discussions you may have with them regarding blocked properties and General License No. 9. This Group strongly supports the requests made by the German Settlement authorities, as outlined above."

Mr. Caldecourt: In the British Zone, Land Reform was covered by a Military Government Ordinance which instructed each Land to produce its own laws on Land Reform, as laid down by the Ordinance. In practice, that led, in all the Laender, to a great deal of political controversy; in one Land the Government fell on this particular matter. However, in three of the four Laender, draft laws have now been submitted by the Land Governments for the Regional Commissioners' assent. Having seen the type of laws which the legislatures have submitted, we have now proceeded to draft a General License No. 9, so that this License can be issued simultaneously with the Land legislation. However, as the Military Government Ordinance is written (insofar as it concerns most classes of blocked property) the property would only be made available for settlement when it has been specifically released by Military Government for that purpose. That was considered necessary in order not to prejudice the agreed methods for disposition of blocked property. This thought in the original Ordinance finds an echo in the draft License No. 9. In the case of applications for settlement which have been submitted thus far, we have dealt with them on a case by case basis. I am not aware that we have refused any applications that have been submitted to us. There may be some cases of United Nations or neutral owned properties, where agreement was not given; where, however, the owner of the property has been agreeable to the project, we have given our license.

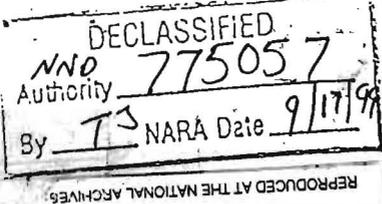
Mr. Hartzsch: Would this General License No. 9, which you have in draft form, cover the type of property which Mr. Raupp is asking me to find out about?

Mr. Caldecourt: I think a special release of the property by the Government would be necessary, before the License could become effective. However in the case of the Kleingartengesetz, the Land legislatures have submitted general detailed proposals which include Kleingartens. Therefore, this General License would cover that aspect of it.

Mr. Hartzsch: Your law is not necessarily restricted to just permitting the use of land for agricultural purposes. Could it be used for building too?

Mr. Caldecourt: No. I think a special application would still have to be made for settlement or building purposes.

Mr. Hartzsch: Then, in other words, your License No. 9 would be very much like ours, and there would be no objection if, (after the publication of your General License No. 9) a substantially similar application should be given to the License.



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Mr. Caldecourt: Insofar as the laws permit. There are differences in the basic laws. In each Land in the British Zone a different law has been or is being enacted.

Mr. Hartzsch: Do the French have anything similar to this procedure?

Mr. Suchard: At present, I can't tell you exactly what the terms for Land Reform are. I can only tell you the principle aspect of this question. Because the Law concerning Land Reform is a more special one than Law No. 52, it must come before Law No. 52. That is, if property must be disposed of under a Land Reform Law, you can't argue that this property can't be disposed of under Law No. 52. However, there is a question that arises, namely, when the Land Reform Law concerns amicable agreements. In this class of cases, since we know the inquiries will not be very numerous, we shall grant special licenses.

The French Law provides for expropriating property where owners owned more ground than the Law permits, but without waiting for expropriation to take place the owner could sell that ground or dispose of it any way he chooses. It was in cases like this, that the owner is required to request an individual license. In the matter of Allied property, a provision was inserted in the agricultural Land Reform Law, worded as follows: "The application of agricultural reform to property belonging to nationals of the Allied nations, or to neutral nationals, shall be reserved to the competence of the Military Government".

Mr. Hartzsch: Mr. Caldecourt, one more question. Do you have any idea as to when your General License No. 9 may be issued in the British Zone?

Mr. Caldecourt: It is believed that within a month it will be effective in at least one Land.

Mr. Favereau: Are there provisions in the British and American Zones for the application of agrarian reform to properties of United Nations and neutral nationals?

Mr. Hartzsch: No special provisions, however, our interpretation is that properties of United Nations and neutral nationals are also subject to Land Reform.

Mr. Kelly: In the British Zone the provision of the Military Government Ordinance which affects United Nations and neutral nationals property is that where such land is expropriated, the mode and amount of compensation shall be fixed by Military Government. I am able to say that we are now putting out a special new Ordinance to lay down the method of payment of compensation for United Nations and neutral properties.

Mr. Hartzsch: With respect to Item No. 9 on the Agenda, "The Question of Transferring Properties to Curators, etc." which concerns United Nations and neutral properties under control. We have had, as you know, a Decentral Program for approximately one and one-half years. We have given wide publicity to our Program by way of the press, by notifying all of the Occupation Powers and all of the Military Missions and our State Department has advised the Governments of all countries in the world of this Program. Despite all of our efforts in the past year and a half, we have only released to agents appointed by the owners 35% of the properties belonging to absentee owners, and about 51% of the value of all such properties under control. We therefore, feel it is necessary to make additional efforts to release these properties from control, and it is our plan to make every effort during the next three months to have the

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agents named by the owners decontrol their property. However, if it is not decontrolled (possibly by the middle of March) we are seriously considering, and in one form or another will put through, the following program: All properties valued at less than 60,000 DM will be returned to the person who had it in his possession before we took it under control. In cases of properties valued at more than 60,000 DM, it is our hope to transfer such properties to the custody of curators in absentium appointed by German Courts. There are a number of difficulties with this procedure under German Law. I believe my British colleagues ran into this problem and it is from their experience that, I think, I can state the following: First, I should like to say that the entire matter has been referred to our Legal Division. I understand that a curator in absentium cannot be appointed where the owner's address is known and where the owner has not requested such an appointment. I understand in the British procedure it was found necessary to issue a special authorization permitting the German Courts to name curators in their Zone, even though the owner's name and address is known. Is that correct?

Mr. Kelly: Under German Law curators in absentium can only be appointed on behalf of individuals; curators in absentium may not be appointed on behalf of corporations. Consequently, corporate properties under control cannot be turned over to curators. I only know one state, which is Poland, where a curator in absentium has been appointed. They have appointed a curator in absentium who is resident in Berlin and he not only claims to have the curatorship of Polish nationals (whether they have come forth themselves to appoint agents or not) but he claims he has the power to come forth and claim all Polish property subject to restitution. It is quite clear the Polish Government is taking those steps to expropriate all of this property for the Polish Government. The only way in which an action of this nature can be avoided is by issuance of Military Government orders that the appointment of curators must remain with the German Courts.

Mr. Hartzsch: Therefore, with this background, it is our intention to write personal letters, which we have already done before, but with an additional paragraph, notifying all owners that if their property is not released by, say the middle of March, it will all be automatically released from control under one or other of the two provisions which I mentioned.

Mr. Suchard: So far as we are concerned, we will help you all we can.

Mr. Hartzsch: Do the British and French have any such intention?

Mr. Suchard: I should like to say, first of all, that the intention of the French Military Government is precisely that of the British and American Military Governments. We also intend, within a certain time limit, to designate the curators in absentium and we have advised, by considerable publicity, those owners abroad to designate their own agents. We will have sent out, by the organizations representing French interests, individual letters. I think, therefore, that we are in complete accord on this principle.

I should like to add a few words to the problem presented by the British representative. We have received a similar request from the Polish Government, namely, that they, themselves, want to name the curators in absentium and we also have received the same request from the Czechoslovakian Government. I don't believe that an amendment to the German Code is necessary in order to meet this request. I believe that German interpretations and decisions connected with this particular Article in the German Civil Code hold that it was established on a reciprocal basis and that in the absence of reciprocal agreements between the Governments, German legislation will control. This question was studied rather thoroughly.

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Mr. Hartzsch: I take it then, with reference to the Polish property, Dr. Gielb is getting the same kind of information from all three Powers. We do not recognize him. Since there is no German Government, there can be no reciprocity and no recognition of Dr. Gielb.

I think with that note, unless there are other questions anyone would like to discuss, we will close the meeting.

Mr. Lirman: If the Americans are going to send out individual letters to owners, we will be pleased to receive copies.

Mr. Hartzsch: We have sent out one letter to each owner and are going to send another and would be glad to furnish Mr. Lirman with enough copies to send out to French owners.

Last week I prepared a ten page memorandum to General Clay regarding our plans for getting out of business during the next six months, and also reviewed the progress made during the past six months. One large group of properties in every category are those located in Berlin which need special treatment. We made specific recommendations pertaining to all such properties located in Berlin. For example: It was proposed and approved that we do the following: We shall attempt to obtain tripartite agreement in Berlin to set up a German Property Control Committee similar to the one we have in each Land, to handle properties of all categories in Berlin. This would be financed by the Magistrate. If we cannot obtain tripartite approval for such a program, we will then set up such a committee in our Sector, financed by a small annual charge against every property under control, including duress properties.

Mr. Suchard: I believe that there was a draft on this question submitted to the Kommandatura and that the three Western Powers agreed to accept this.

Mr. Hartzsch: And now, with three Power agreement in the Western Sectors of Berlin and a new Kommandatura, we hope we will have more success.

In addition, with reference to United Nations properties, due to the particular conditions existing in Berlin, namely, the financial situation, we have had difficulty decontrolling such properties. For example: We all know that all of the funds in Berlin, for all practical purposes, were confiscated, which was not the case in the Zone. In addition, the present financial situation is very unsatisfactory. At the same time the corporations and properties now under control, in many cases have debts incurred prior to the Occupation. If these properties are released from control, they are subject to lawsuits by the creditors. Therefore, in view of our policy of not permitting properties under control to be sued, the reason for retaining the properties under control is obvious. We are, therefore, proposing, and will attempt to obtain approval on a tripartite basis in Berlin of a law which would protect properties released from control against lawsuits of this type; in other words, a moratorium on pre-capitulation debts. That is our second proposal which we shall try, within the next few weeks, to start on its way to Berlin. We also feel that in the Zone, as we all know, most of these corporations received at least 1 - 10 on the currency reform. However, in Berlin, all balances as we know, were wiped out by the closing of all the banks. It is our position that basic fairness requires that some protection is necessary where a firm would be rendered insolvent by lawsuits of this type.

Mr. Suchard: Does the special treatment for Allied and neutral properties in Berlin result from the premise that the decontrol procedure in the Zone should be made to apply to Berlin, namely, that all properties should be decontrolled by 31 March 1949.

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Mr. Hartzsch: Providing we can get legislation before that time in Berlin.

Mr. Suchard: In other words, you will not release properties from control in Berlin unless before removing control you have substituted some other means of protection.

Mr. Kelly: I would like to consider the matter. It opens up a field we have not considered at all.

Mr. Hartzsch: Another group of properties which are giving us some trouble in Berlin are those of Nazi organizations. We all know that the only labor organization in Berlin for a long time was the FDGB. This is a communist labor union. We have refused to turn over labor union properties to this organization. There is another labor organization recently formed called UGO. It is our proposal, and we intend to carry this out, to transfer certain labor union properties to this organization when they are properly organized to receive property.

Mr. Hartzsch: We also have a problem with consumer cooperative property. In our Sector no consumer cooperative properties have been returned because of a misunderstanding of an order issued in the U. S. Sector of Berlin. However, most of these properties were formerly owned by the GEG which, I believe, has its Headquarters in Hamburg. As I understand it, this is now approved by the British. We are now going to transfer former GEG properties back to this organization. We previously discussed duress properties in our schedule and our intention is to attempt to get tripartite approval on a restitution program. If we are unable to get it, it appears at the present time that we might make Law No. 59 applicable to the U. S. Sector.

That, briefly, is our program so that we can wind up our Property Control Organization at the agreed time, 1 July 1949. I thought you might be interested in our project schedule for the next six months. I was wondering, generally, without getting into specific points, whether it could be stated that this program appears to be a reasonable one from your particular viewpoints.

Mr. Suchard: I believe, speaking generally, that for most of the program, if not for all of it, the matters concerning U. S. Military Government concern French Military Government. The French Delegation is extremely happy, at this meeting, with the results which have been accomplished, and hopes they may be continued in the future with a view to continued cooperation.

Mr. Kelly: Our views are thoroughly in accord with Mr. Suchard's remarks. There is one further point I might mention and that is that I think your plans with regard to Berlin are definitely optimistic.

Mr. Hartzsch: I do presently feel that in one way or another the entire plan will be carried through with at least 85% success before 1 July 1949.

I would like again to close the meeting and thank you all for coming, and to express the hope that we have those meetings at least every six weeks. We are very serious in our intention of getting out of business and we would like to see more of you because after that date we will all be home.

Mr. Porter: At this point, I would like to call attention to the need for establishing a working Committee, as has been proposed.

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Mr. Hartzsch: We will reopen the meeting for the third time. Would you be prepared to nominate somebody to this committee?

Mr. Kelly: I nominate myself.

Mr. Hartzsch: Mr. Suchard and Mr. Porter are nominated and I will try and get to the meetings.

Mr. Kelly: Both the French and British delegation would like to express their appreciation for the courtesies extended them during this meeting and their stay in Wiesbaden.

The meeting adjourned at 1730 hours on 14 January 1949.

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TRI-PARTITE MEETING

held in

WIESBADEN, GERMANY

on

13 - 14 January 1949

1. Coordination of inter-zonal problems arising because of different Restitution Laws in the Three Zones. Examples:
  - a. Reciprocity in enforcing judgments outside of Zone where rendered.
  - b. Conflicts as to what venue.
  - c. Reciprocal legal aid between Zones.
2. Possibility of a uniform Restitution Law for the Three Western Sectors of Berlin.
3. Present position of each party on the disposition of Reich Property.
4. French Proposal for the Revision of MG Law No. 52 which will be necessary after the promulgation of the Occupation Statute - General discussion as to proposed amendment to Law No. 52.
5. Possibility of coordinating plans for a German Central Property Control Coordinating Committee to eventually take over Property Control policy functions.
6. Discussion of a problem presently before the Allied Bank Commission involving interpretation of the effect of M. G. Law 63 and those Nazi and Reich Funds which were used in the operation of Labor Union and cooperative properties disposed of pursuant to Control Council Directive No. 50.
7. Disposition of Funds of Properties Transferred Pursuant to Articles II, III, and V of Control Council Directive No. 50.
8. Freeing of Blocked Properties for Settlement Purposes; General License No. 9 to Military Government Law No. 52.
9. The question of transferring properties to curators, etc.

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MILITARY GOVERNMENT - GERMANY  
UNITED STATES ZONE

August 1945

LAW NO. 53

## FOREIGN EXCHANGE CONTROL

## ARTICLE I

## Prohibited Transactions

1. Except as duly licensed by or on instructions of Military Government, any transaction involving or with respect to any of the following is prohibited:

- (a) Any foreign exchange assets owned or controlled directly or indirectly, in whole or in part, by any person in GERMANY;
- (b) Any property located in GERMANY owned or controlled directly or indirectly, in whole or in part, by any person outside GERMANY.

2. Any transaction with respect to or involving any of the following is also prohibited, except as duly licensed by or on instructions of Military Government:

- (a) Property wherever situated if the transaction is between or involves any person in GERMANY and any person outside GERMANY;
- (b) Any obligation of payment or performance, whether matured or not, due or owing to any person outside GERMANY by any person in GERMANY;
- (c) The importing or otherwise bringing into GERMANY of any foreign exchange assets, German currency, or securities issued by persons in GERMANY and expressed or payable in German currency;
- (d) The exporting, remitting, or other removal of any property from GERMANY.

3. All existing licenses and exemptions issued by any German Authority authorizing any of the aforesaid transactions are cancelled.

## ARTICLE II

## Declaration of Property and Obligations

- 4. (a) Within thirty (30) days of the effective date of this law, unless otherwise ordered, any person owning or controlling directly or indirectly, in whole or in part, any foreign exchange asset, or owing any obligation of payment or performance, whether matured or not, to a person outside GERMANY, shall file with the nearest branch of the Reichsbank or other institution designated by Military Government, a written declaration of such asset or obligation in such form and manner as will be prescribed by Military Government.
- (b) When and as directed by Military Government, any person affected by this law shall file such other reports as may be required.

## ARTICLE III

## Delivery of Property

5. Within fifteen (15) days of the effective date of this law, all of the following classes of property shall be delivered, against receipt therefor,

by the owner, holder or other person in possession, custody or control thereof, to the nearest branch of the Reichsbank, or as otherwise directed:

- (a) Currency other than German currency;
- (b) Checks, drafts, bills of exchange and other instruments of payment drawn on or issued by persons outside GERMANY;
- (c) Securities and other evidences of ownership or indebtedness issued by:
  - (i) Persons outside GERMANY; or
  - (ii) Persons in GERMANY if expressed in a currency other than German currency;
- (d) Gold or silver coin; gold, silver or platinum bullion or alloys thereof in bullion form.

6. Any person owning or controlling directly or indirectly, in whole or in part, any other type of foreign exchange asset, shall, when ordered by Military Government, deliver, against receipt, the possession, custody or control of such asset to the nearest branch of the Reichsbank, or as otherwise directed.

7. Any property referred to in this Article which hereafter comes into the possession, ownership or control of any person subject to this law, shall, within 3 days thereof, be delivered by such person in the same manner as provided in this Article.

#### ARTICLE IV

##### Applications for Licenses

8. Applications for licenses to engage in transactions prohibited by this law, or any request in relation to the operation of this law, shall be submitted in accordance with such regulations as may be issued at a future date by Military Government.

#### ARTICLE V

##### Void Transactions

9. Any transfer effected in violation of this law and any agreement or arrangement made, whether before or after the effective date of this law, with intent to defeat or evade this law or the objects of Military Government, is null and void.

#### ARTICLE VI

##### Conflicting Law

10. In case of any inconsistency between this law or any order made under it and any German law, the former prevails.

#### ARTICLE VII

##### Definitions

11. For the purposes of this law:

- (a) "Person" shall mean any natural person, collective persons and any juristic person under public or private law and any government including all political sub-divisions, public corporations, agencies and instrumentalities thereof;
- (b) "Transaction" shall mean acquiring, importing, borrowing or receiving with or without consideration, remitting, selling, leasing,

transferring, removing, exporting, hypothecating, pledging or otherwise disposing of; paying, repaying, lending, guaranteeing or otherwise dealing in any property mentioned in this law;

- (c) "property" shall mean all movable and immovable property and all rights and interests in or claims to such property whether present or future, and shall include, but shall not be limited to, land and buildings, money, stocks, shares, patent rights or licenses thereunder, or other evidences of ownership, and bonds, bank balances, claims, obligations and other evidences of indebtedness, and works of art and other cultural materials;
- (d) "foreign exchange asset" shall be deemed to include:
- (i) Any property located outside GERMANY.
  - (ii) Currency other than German currency; bank balances outside GERMANY; and checks, drafts, bills of exchange and other instruments of payment drawn on or issued by persons outside GERMANY;
  - (iii) Claims and any evidence thereof owned or held by:
    - a. Any person in GERMANY against a person outside GERMANY whether expressed in German or other currencies;
    - b. Any person in GERMANY against any other person in GERMANY if expressed in a currency other than German currency;
    - c. Any person outside GERMANY against another person outside GERMANY in which claim a person in GERMANY has any interest;
  - (iv) Any securities and other evidences of ownership of indebtedness issued by persons outside GERMANY, and securities issued by persons in GERMANY if expressed or payable in a currency other than German currency;
  - (v) Gold or silver coin, or gold, silver or platinum bullion or alloys thereof in bullion form, no matter where located;
  - (vi) Such other property as is determined by Military Government to be a foreign exchange asset;
- (e) A juristic person may, for the purpose of the enforcement of the provisions of this law, be deemed to be in any one or more of the following countries: (a) that country by, or under whose laws it is created, (b) that or those in which it has a principal place of business, or (c) that or those in which it carries on business.
- (f) Property shall be deemed to be "owned" or "controlled" by any person if such property is held in his name or for his account or benefit, or owed to him or to his nominee or agent, or if such person has a right or obligation to purchase, receive or acquire such property;
- (g) The term "GERMANY" shall mean the area constituting "Das Deutsche Reich" as it existed on 31 December 1937.

#### ARTICLE VIII

##### Penalties

12. Any person violating the provisions of this law shall upon conviction by Military Government Court be liable to any lawful punishment other than death

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By SR NARA Date 9-30-99

Entry 390/40/32/3  
File AG 010.6  
Box 635

as the court may determine.

ARTICLE IX

Effective Date

13. This law shall become effective upon the date of its first promulgation.

BY ORDER OF MILITARY GOVERNMENT.

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Authority NND 725119  
By SR NARA Date 9-30-99

RG 260  
Entry 390/40/32/3  
File AG 010.6  
Box 635

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U. S.)  
Office of the Adjutant General  
APO 742

FILE NO.  
AG 010.6

MILITARY GOVERNMENT LAW # 52

**REQUEST RETURN**  
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Revised Text  
 1, Apr 45

MILITARY GOVERNMENT - GERMANY  
 SUPREME COMMANDER'S AREA OF CONTROL

LAW NO. 52

BLOCKING AND CONTROL OF PROPERTY

Amended (1)

ARTICLE I

Categories of Property

1. All property within the occupied territory owned or controlled, directly or indirectly, in whole or in part, by any of the following is hereby declared to be subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government:-

- (a) The German Reich, or any of the Lander, Gaue, or Provinces, or other similar political subdivisions or any agency or instrumentality thereof, including all utilities, undertakings, public corporations or monopolies under the control of any of the above;
- (b) Governments, nationals or residents of nations, other than Germany, which have been at war with any of the United Nations at any time since September 1, 1939, and governments, nationals or residents of territories which have been occupied since that date by such nations or by Germany;
- (c) The NSDAP, all offices, departments, agencies and organizations forming part of, attached to, or controlled by it; their officials and such of their leading members or supporters as may be specified by Military Government;
- (d) All persons while held under detention or any other type of custody by Military Government;
- (e) All organizations, clubs or other associations prohibited or dissolved by Military Government;
- (f) Owners absent from the Supreme Commander's area of Control and Nationals and Governments of United Nations and Neutral Nations;
- (g) All other persons specified by Military Government by inclusion in lists or otherwise.

2. Property which has been the subject of duress, wrongful acts of confiscation, dispossession or spoliation from territories outside Germany, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise, is hereby declared to be equally subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government.

ARTICLE II

Prohibited Transactions

3. Except as hereinafter provided, or when licensed or otherwise authorized or directed by Military Government, no person shall import, acquire or receive, deal in, sell, lease,

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Authority NND 775119By SR NARA Date 9-30-99

transfer, export, hypothecate or otherwise dispose of, destroy or surrender possession, custody or control of any property:-

- (a) Enumerated in Article I hereof;
- (b) Owned or controlled by any Kreis, municipality or other similar political subdivision;
- (c) Owned or controlled by any institution dedicated to public worship, charity, education, the arts and sciences;
- (d) Which is a work or art or cultural material of value or importance, regardless of the ownership or control thereof.

### ARTICLE III

#### Responsibilities for Property

4. All custodians, curators, officials or other persons having possession, custody or control of property enumerated in Articles I or II hereof are required:-

- (a) (i) To hold the same, subject to the directions of the Military Government and, pending such direction, not to transfer, deliver or otherwise dispose of the same;
- (ii) To preserve, maintain and safeguard, and not to cause or permit any action which will impair the value or utility of such property;
- (iii) To maintain accurate records and accounts with respect thereto and the income thereof.
- (b) When and as directed by Military Government:-
  - (i) To file reports furnishing such data as may be required with respect to such property and all receipts and expenditures received or made in connection therewith;
  - (ii) To transfer and deliver custody, possession or control of such property and all books, records, and accounts relating thereto; and
  - (iii) To account for the property and all income and products thereof.

5. No person shall do, cause or permit to be done any act of commission or omission which results in damage to or concealment of any of the properties covered by this law.

### ARTICLE IV

#### Operation of Business Enterprises and Government Property.

6. Unless otherwise directed and subject to such further limitation as may be imposed by Military Government:-

- (a) Any business enterprise subject to control under this law may engage in all transactions ordinarily incidental to the normal conduct of its business activities within occupied Germany provided that such business enterprise shall not engage in any transaction which, directly or indirectly, sub-

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Authority NND 775119By SR NARA Date 9-30-99

stantially diminishes or imperils the assets of such enterprise or otherwise prejudicially affects its financial position and provided further that this does not authorize any transaction which is prohibited for any reason other than the issuance of this law;

- (b) Property described in Article I, 1 (a) shall be used for its normal purposes except as otherwise prohibited by Military Government.

ARTICLE V  
 Void Transactions

7. Any prohibited transaction effected without a duly issued license or authorization from Military Government and any transfer, contract or other arrangement made, whether before or after the effective date of this law, with intent to defeat or evade this law or the powers or objects of Military Government or the restitution of any property to its rightful owner, is null and void.

ARTICLE VI  
 Conflicting Laws

8. In case of any inconsistency between this law or any order made under it and any German law the former prevail. All German laws, decrees and regulations providing for the seizure, confiscation or forced purchase of property enumerated in Articles I or II hereof, are hereby suspended.

ARTICLE VII  
 Definitions

9. For the purposes of this law:

- (a) "Person" shall mean any natural person, collective person and any juristic person under public or private law, and any government including all political sub-divisions, public corporations, agencies and instrumentalities thereof;
- (b) "Business Enterprise" shall mean any person as above defined engaged in commercial, business or public welfare activities.
- (c) "Property" shall mean all moveable and immoveable property and all rights and interests in or claims to such property whether present or future, and shall include; but shall not be limited to, land and buildings, money, stocks/shares, patent rights or licenses thereunder, or other evidences of ownership, and bonds, bank balances, claims, obligations and other evidences of indebtedness, and works of art and other cultural materials;
- (d) A "National" of a state or government shall mean a subject, citizen or partnership and any corporation or other juristic person existing under the laws of; or having a principal office in the territory of, such state or government;
- (e) "GERMANY" shall mean the area constituting "Das Deutsche Reich" as it existed on 31 December 1937.

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## ARTICLE VIII

## Penalties

10. Any person violating any of the provisions of this law shall, upon conviction by a Military Government Court, be liable to any lawful punishment, including death, the Court may determine.

## ARTICLE IX

## Effective Date

11. This law shall become effective upon the date of its first promulgation.

BY ORDER OF MILITARY GOVERNMENT.



RG 131  
Entry F.F.C.-General  
File \_\_\_\_\_  
Box 404

- 2 -

Ohio Edison Company had received a "license" within the meaning of the above-quoted language of Vesting Order No. 17906 and that that license was General License No. 94. The Swiss Bank Corporation submitted with its letter documentary evidence to establish that the 405 shares of Ohio Edison Company stock were purchased in 1950 with the free funds of their Basle Office.

There is no question that the 405 shares of Ohio Edison Company stock were purchased subsequent to the cut-off date for Switzerland in General License No. 94 and that such purchase was made with free funds. There is also no question that Report No. 6732 was erroneously filed by the Ohio Edison Company. Had we known the true facts, the property could not have been vested.

As I see it, two issues are raised in connection with this matter. (1) Whether the 405 shares were covered by Vesting Order No. 17906 and (2) whether the return provisions of the Trading with the Enemy Act must be satisfied in effecting a return of the property.

As to the first issue the basic question is whether the Ohio Edison Company had received a "license" within the meaning of what I shall refer to as the exception clause of Vesting Order No. 17906. If so, the 405 shares were specifically excepted from the vesting order and were therefore not vested.

Form OAF-703 was used in the vesting of the 405 shares of Ohio Edison Company stock. That form was drafted in connection with the Snyder-Vandenberg Program for the purpose of vesting securities registered in the names of blocked nationals, the owners of which securities were presumed to be enemies. In drafting the form, special thought was given to excepting from the effect of the vesting order all securities which had been unblocked prior to the effective date of the vesting order. The language used in the exception clause was deliberately chosen to prevent the vesting of any securities which were not then blocked under Executive Order No. 8389, as amended. I think that it would be reasonable to construe the exception clause to give effect to this intention.

You will note that the word "license" in the exception clause is in no way limited or modified. As used it includes within its scope all types of licenses;--specific, blanket and general. I therefore think that the word "license" may and should be construed to include general licenses as well as any other types used in unblocking actions taken by the Office.

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RG 131  
Entry F.F.C.-General  
File  
Box 484

- 3 -

General License No. 94 is a public document which was published in the Federal Register when originally issued by the Treasury Department and each time it was amended by the Treasury Department and this Office. Because of publication in the Federal Register it can reasonably be said to have been received by the Ohio Edison Company.

This interpretation of the word "license" to include general licenses is consistent with the practice followed by the Collection & Custody Section in reducing to possession property vested under Form OAP-703. That Section, after consultation with the Foreign Funds Section, has always taken the position that any securities, identified in the exhibits attached to Form OAP-703, which had been unblocked under General License No. 95 were not covered by the vesting order. Transfer agents and issuing companies have been so notified by the Collection & Custody Section and appropriate action has been taken to write off such securities. If securities unblocked by General License 95 are not covered by Vesting Form OAP-703, it seems logical to come to the same conclusion with respect to securities unblocked under General License 94.

If you agree with this conclusion of the effect of the vesting order, the only other issue, as indicated above, is whether the property may be returned administratively without the necessity of following the procedure set forth in Section 32 of the Trading with the Enemy Act. In this connection I refer to Opinion R-567 dated April 4, 1947 and to the memorandum dated June 25, 1947, approved by Mr. Bazelon, from Julius Schlesinger, then Acting Chief, Claims Section to Mr. Bazelon, copies of which are attached hereto. In view of this opinion and memorandum, it seems to me there is clear and adequate authority to make an administrative return of the 405 shares of Ohio Edison Company stock together with any dividends thereon which may have been paid to the Office in the meantime without having to satisfy the return provisions of the Trading with the Enemy Act, as amended.

M. W.

(signed) Max Wilfand

Attachments

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RG 131  
Entry FEC-General  
File \_\_\_\_\_  
Box 404

RECEIVED  
DEC 30 1946  
AMSTERDAM

Nederlandsche Handel-Maatschappij  
Amsterdam

Amsterdam, 30th December 1946.

Stock Department.  
No. 3917 M.

Gentlemen,

Herewith we beg to refer to the exchange of telegrams which we had last week about the payment of the dividend coupons of the Royal Dutch Shares in safe custody with us for your account. To-day we got a letter from De Nederlandsche Bank in which they expound their views in this matter.

As you will know from our letter of 15th October last (Nr. 2809 M) we applied to De Nederlandsche Bank for a license to transfer the proceeds of the cash dividends on your shares into U.S.A. Dollars. We emphatically pointed out to them that as the greater part of the shares is in nominal form, you can be considered as the legal owner of the shares, so that there can be no objection against granting our request. De Nederlandsche Bank is quite willing to accept this point of view.

However, the U.S.A. Treasury takes up a different position with the dividends on shares of several American companies standing in the name of Dutch Administration-offices. They only consider these offices as beneficial owners so that the dividends can only be transferred after producing certificates of non-enemy-ownership since a certain date. Under these circumstances De Nederlandsche Bank was not willing to grant the license asked for but has brought this matter to the knowledge of the Dutch Ambassador in Washington, who now consults with the U.S.A.-Treasury for taking both the same stand point in this matter.

As to the licenses asked for regarding the stock dividend on your Royal Dutch shares De Nederlandsche Bank informed us as follows:

- 1o. The proceeds of the sale of stock dividend coupons is not transferable to foreign countries.
- 2o. De Nederlandsche Bank in principle agrees to granting a license for the sale of interim receipts resulting from the exchange of dividendcoupons number 84 of your Royal Dutch Shares, provided the proceeds will be reinvested in Dutch specially mentioned securities.

Hoping soon to be able to inform you of the result of the negotiations between the Dutch Ambassador and the U.S.A.-Treasury,  
Yours, Gentlemen,

Very truly yours,  
NEDERLANDSCHE HANDEL-MAATSCHAPPIJ, S.J.



THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK,  
Corporate Trust Department,  
NEW YORK.

310551

Authority NND 467105

By SR NARA Date 10-7-99

RG 131  
Entry F.F.C.-General  
File \_\_\_\_\_  
Box 404

I agree to this matter.  
I am sorry that the investigation was not completed.  
I am sorry that the investigation was not completed.  
I am sorry that the investigation was not completed.

No. 3071 N.  
Stock Exchange

Foreign Funds Control  
Department of the Treasury

**FOREIGN FUNDS CONTROL**

S. DEWEY ✓

PLACE, N. W.

ON 6, D. C.

Jan 30, 1946

Jan. 6, 1947

REC-11-97  
JAN 11 1947  
# 102371

Mr. Banning - District NB Bldg.

You will note that the attached letter refers to telephone conversation between Mr. Dewey and Mr. Schmidt. I have discussed the matter with Mr. Schmidt and we are at a complete loss to understand the underlined sentence in the cable quoted in the enclosure to Mr. Dewey's letter. Unless the Licensing Division knows of some basis for this statement I suggest that we prepare a reply to Mr. Dewey negating the statement. I also suggest that we find out from the State Department whether any action is to be taken with the Dutch Government under the letter of assurances (See our letter of December 13, 1946, to Clayton in the attached file.)

J. S. Richards



RIGHTS  
 OF THE  
 FBI  
 501 WEST 9 STREET  
 WASHINGTON, D.C.

RG 131  
 Entry FEC-General  
 File \_\_\_\_\_  
 Box 484

MEMORANDUM

to  
 Mr. Charles S. Dewey  
 Vice President

*great privilege  
 - U.S.*

Royal Dutch Company  
Agreement dated September 10, 1918

As Depositary under the above-mentioned Agreement, there is deposited with us a block of Ordinary Stock of Royal Dutch Company against which we have issued certificates for 169,671 New York shares. As provided in the Agreement, the Ordinary Stock is held by our Agent, Nederlandsche Handel Maatschappij, Amsterdam, Holland.

*3 N.Y. Ser 100  
 guilder per*

The Agreement provides that any cash dividends paid on the Ordinary Stock shall be distributed pro rata to the holders of outstanding New York Shares issued by us as Depositary and dividends paid other than cash shall be made available to such holders in such manner as we, as Depositary, and Kuhn, Loeb & Co., as Depositors, shall agree upon.

On July 16, 1946 a dividend of 25% was declared for the year 1944 of which 5% is payable in cash and 20% in the Company's shares and a further dividend of 6% in cash was declared for the year 1945. Said dividends are subject to the deduction of 15% tax, which will result in the dividend amounting to 1.25 Guilders per 100 Guilders par value of stock for the year 1944 and 5.10 Guilders per 100 Guilders par value of stock for the year 1945. The total of the two cash dividends amounts to approximately 300,000 Guilders, and has been paid to our Agent, Nederlandsche Handel Maatschappij.

Nederlandsche Handel Maatschappij applied on October 12, 1946 to the Netherlands Bank pursuant to regulations existing in Holland, for a license to convert the cash dividend into dollars and remit to us. We have cabled Nederlandsche Handel Maatschappij and have been advised that Netherlands Bank has not issued the license. A cable received from Nederlandsche Handel Maatschappij on December 20, 1946, reads as follows:

**"YOUR CABLE NINETEENTH RE LICENSE TRANSFER ROYAL DUTCH DIVIDEND WE APPROACHED NEDERLANDSCHE BANK SEVERAL TIMES STOP QUESTION DEPENDANT ON RESULT DISCUSSIONS BETWEEN OUR AUTHORITIES AND USA TREASURY STOP SUGGEST YOU APPLY TO TREASURY".**

*||<*

In accordance with our conversation, I would appreciate it if you would approach the proper person in the Treasury Department to see if some information could be obtained, as suggested in said cable, concerning the possibility of receiving the license which was requested from the Netherlands Bank.

18542064  
 FOREIGN & DOMESTIC CORP. BOF  
 RECEIVED

RG 131  
 Entry F.F.C.-General  
 File \_\_\_\_\_  
 Box 404

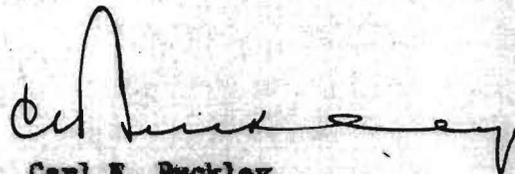
## MEMORANDUM

MEMORANDUM  
 to  
 Mr. Charles S. Dewey  
 Vice President

- 2 -

The importance of receiving the cash dividend in dollars so that we may distribute it pro rata to the holders of New York Shares is enhanced by the fact that we believe it will be impracticable to distribute the stock dividend to the holders of record of New York Shares until we have received the cash dividend in dollars. I might also add that we have been receiving letters from various holders of New York Shares criticizing the delay in distributing the cash and stock dividends and at least one holder of New York Shares has written to the Export-Import Bank complaining about the delay.

If there is any further information you desire, the undersigned would be pleased to obtain it for you.



Carl E. Buckley  
 Vice President.

December 26, 1946.

1946 DEC 21 6W 1 15

TREASURY  
 FOREIGN FUNDS CONTROL  
 RECEIVED



310555

Authority NND 467103  
 By SR NARA Date 10-7-99

RG 131  
 Entry FEC-General  
 File \_\_\_\_\_  
 Box 404

AM: 709, dag - 230063

HGH:WCG:deg  
 133434

February 17, 1955

Moses and Haas  
 50 Broad Street  
 New York 4, New York

Attention: Mr. Fritz Moses

Re: Emil Prisker

Gentlemen:

This will acknowledge your letter of February 2, 1955 requesting the release of certain securities which you state were deposited by the Boehmische Union Bank with a bank in New York for the account of your client, Mr. Emil Prisker, who is now a resident of Paris, France.

You are advised that the  $\frac{1}{2}$ /\$1000 Konversionskasse Dollar Bonds Nos. 68841/44 were vested by Vesting Order No. 8711 and you will be advised further with respect to these bonds by our Claims Section. We find no record of having vested or received the other securities mentioned in your letter. In order that we may determine the status of these securities it is requested that you furnish us with the name of the bank in New York in which they were deposited and the exact title of the account in which they were held. It is also requested that you furnish us with the certificate numbers of the other two Prussian State Bonds.

Upon receipt of this information we shall be glad to have a further search made of our records.

Very truly yours,

Dallas S. Townsend  
 Assistant Attorney General  
 Director, Office of Alien Property

By Henry G. Wilken, Intercustodial  
 and Foreign Funds Officer

*Handwritten initials:*  
 WCG  
 HGH

RG 131  
 Entry F.F.C.-General  
 File \_\_\_\_\_  
 Box 484

HGH:WCG:deg - 133463

Thomas H. Creighton, Jr.  
 Chief, Claims Section

February 9, 1955

Henry G. Hilken, Intercustodial  
 and Foreign Funds Officer

Letter from Moses and Haas, New York  
 Assets belonging to Emil Frisker Vested by Vesting Order No. 8711

Attached is a letter dated February 2, 1955 from Moses and Haas,  
 50 Broad Street, New York 4, New York requesting the release of  
 certain securities which they state are owned by their client,  
 Mr. Emil Frisker of Paris, France.

Included among these securities are 4/\$1000 3% Dollar Bonds of  
 the Konversionskasse fuer Deutsche Auslandschulden 1946, with  
 interest coupons from January 1, 1938, Bonds Nos. C 68841/844  
 which bonds were vested by Vesting Order No. 8711.

Please note the ~~last~~ paragraph of the letter wherein Moses and  
 Haas request that this letter be considered as an application for  
 the release of the securities in view of the February 9, deadline  
 for the filing of claims.

We have not as yet determined whether the other securities  
 mentioned in the letter have been vested.

H.G.H.

Henry G. Hilken

310557

RG 131  
 Entry FEC-General  
 File \_\_\_\_\_  
 Box 404

C  
O  
P  
Y

Moses & Haas  
 Attorneys at Law  
 50 Broad Street  
 New York 4, N.Y.

February 2, 1955

URGENT

(See last paragraph)

Office of Alien Property  
 Department of Justice  
 Washington 25, D. C.

ATTENTION MR. WALTER GORSUCH

Intercustodial & Property Branch

Gentlemen:

Our client, Mr. Emil Prisker, of Paris, owns \$3000 6 $\frac{1}{2}$ % Prussian State Bonds 1951, certificate #18924.

We have been informed that the State Bank, of Czechoslovakia, in Prague, has filed an application with you for the release of these bonds. We request that these bonds be released to Mr. Emil Prisker.

The securities were bought by Mr. Prisker through the Boehmische Union Bank in Saaz (now Zatec), Czechoslovakia, in 1931. The securities were kept by the Czech bank for the account of Mr. Prisker in a bank in New York, probably in an account in the name of Boehmische Union Bank.

Mr. Prisker was informed that the State Bank of Czechoslovakia, in Prague, filed an application with you for the release of the securities. As the securities are owned by Mr. Emil Prisker, we - in his behalf - object to their release to the Czech Bank and request that they be released to Mr. Emil Prisker.

In 1937 there were issued in payment of interest:

\$400. 3% Dollar Bonds of the Konversionskasse fuer Deutsche Auslandsschulden 1946, with interest coupons from January 1, 1938, with the following numbers:

\$100. - C No. 68841  
 \$100. - C No. 68842  
 \$100. - C No. 68843  
 \$100. - C No. 68844

and in 1938 there was issued:

\$97.50 Teilcertifikate (in lieu of interest) Dollar Bonds Konversionskasse (Neue Ausgabe) with interest coupons from January 1, 1939, with the following numbers:

310558

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 Entry FEC-General  
 File \_\_\_\_\_  
 Box 404

- 2 -

\$20. - No. 34167  
 \$20. - No. 34168  
 \$20. - No. 34169  
 \$20. - No. 34170  
 \$10. - No. 36275  
 \$ 5. - No. 25942  
 \$ 2.50 - No. 13585

And furthermore there seem to have been issued also in 1937

\$87.50 Teilcertifikate with interest coupons from  
 July 1, 1937, of which we do not know as  
 yet the certificate numbers.

We do not know what the information is which you have on file,  
 with regard to the actual ownership of these securities. It may well be that  
 the Czech bank has informed you of Mr. Prisker's ownership. If not, we shall  
 be able to submit to you evidence thereof.

Mr. Emil Prisker had to flee from Czechoslovakia and lived at  
 least from 1939 on -if not before- in France. He survived the occupation.  
 He is a Jew, 86 years old.

Mr. Prisker believes that the last date for filing an application  
 for the release is February 9, 1955. We do not know whether this exclusion  
 date is correct. In any event, we would ask you to consider this letter as an  
 application for the release. We shall, of course, submit to you later on a  
 power-of-attorney and such other documents in the matter as may be required.  
 In this respect we would appreciate your advice.

Very truly yours,

/s/ Fritz Moses

FM:EM

310559

RG 131  
 Entry FFC-General  
 File \_\_\_\_\_  
 Box 404

NETHERLANDS EMBASSY  
 WASHINGTON 9, D. C.

HA-14695

December 12, 1946

100007 X  
 FILING AUTHORITY  
 NO: MAIL & FILES  
 ANS. ....  
 NO ANS. REQ. ✓  
 INITIAL MP  
 DATE 12/16/46

Dear Mrs. Schwartz:

In reply to your letter of October 17, 1946, No. 98992, to Mr. B. van Loen of this Embassy, I have the honor to answer your questions in their numerical order as follows:

1. A person from whom negotiable securities have been looted may recover them from the present holder only in case the latter has not acquired them in good faith, which means that at the time of acquisition he was or should have been aware of the fact that such securities were illegally taken from the former.

He who has acquired such securities in regular stock exchange trade, is presumed to have acted in good faith. This presumption is, however, rebuttable.

Acquisition in regular stock exchange trade means one which has come about in accordance with the regulations and customs obtaining at a Netherlands stock exchange, where the order of purchase is executed by a member of De Vereeniging voor den Effectenhandel (Association for the Trade in Securities). The term "acquisition in regular stock exchange trade" includes acquisition of securities at a public auction held in the Netherlands.

2 (a).

Mrs. Margaret Schwartz,  
 Acting Chief, Licensing Division,  
 Foreign Funds Control,  
 Treasury Department,  
 Washington, D. C.

310560

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Entry FEC-General  
File \_\_\_\_\_  
Box 404

-2-

2 (a). So far no measures have been taken pursuant to which a person from whom negotiable securities have been looted will be compensated by the Netherlands Government in case he cannot recover them from the present holder.

If a person from whom negotiable securities have been looted cannot locate them as a result of their not having been presented for registration, duplicates will be issued to him in case Netherlands securities are involved and in case foreign securities are affected the Netherlands Government may take steps in the country concerned with a view to redressing the wrong suffered by the legal owner.

2 (b). The former owner has the right to recover from each previous transferor who was not a bona fide purchaser for value.

3. All transfers of securities have been prohibited since the liberation of the Netherlands, except in case such transfers were licensed by the Office of Securities Registration. The Royal Decree for the Re-establishment of Legal Relations provides, however, for the possibility of establishing a procedure pursuant to which securities may be sold previous to registration.

4.

RG 131  
Entry FEC-General  
File \_\_\_\_\_  
Box 404

-3-

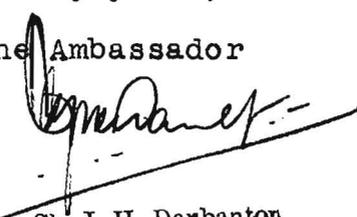
4. If a security is presented for registration concerning which a report has been previously filed by a person claiming that this security was looted from him, the Office of Securities Registration will take the necessary steps to establish the true ownership thereof and will, therefore, in the first place investigate if the present holder has acquired it in good faith. During this investigation the security is not transferable.

5. The period during which claims should have been filed by persons alleging that securities were looted from them has expired. Nevertheless, the Office of Securities Registration will institute an inquiry as described in 4., unless, in the meantime, the ownership of the present holder, who had offered them for registration, has been recognized by said Office.

6. A list of securities reported to have been looted has not been published by the Netherlands Government. However, as soon as it appears that a security thus reported has been presented for registration, the bank or stock broker with whom such security is on deposit, is put on notice that the transfer thereof is illegal.

Sincerely yours,

For the Ambassador

  
Ch. J. H. Daubanton  
Minister Plenipotentiary

310562

RG 131  
 Entry F.F.C.-General  
 File \_\_\_\_\_  
 Box 404

✓  
**NEW YORK STOCK EXCHANGE**  
 ELEVEN WALL STREET

100033 X  
 FILING AUTHORITY  
 NO. MAIL & FEES  
 ANS. V.....  
 NO ANS. REG.....  
 INITIAL  
 DATE 11/20/46

JOHN HASKELL  
 VICE PRESIDENT

October 25, 1946.

Mr. Raymond Jones  
 United States Treasury Department  
 613 District Building  
 1406 G Street, N. W.  
 Washington, D. C.

Ans. dated 11/20/46

Dear Mr. Jones:

Further in connection with our discussion of the proposed publication of the Treasury Department's list of securities stolen from the occupied countries, I am sending you herewith an explanatory memorandum with respect to the New York Stock Exchange's rule of reclamation.

Also included in this memorandum from the Exchange's Department of Floor Procedure which is concerned with such matters is a list of practical suggestions which we hope you and your counsel will take into account in drafting the Treasury rule. The most important of these suggestions are those designed to avoid any appearance of challenging the validity of previous or future contracts on the Exchange, designed for the protection of the public. I am sure that you are just as interested as we are in seeing that the buyer of stocks and bonds receives a good security and does not lose his right to demand performance by the delivery of a security with good title.

Other suggestions have to do with the facilities for the mechanical handling of the lists in brokerage offices, banks, etc.

We are counting on your assurance that our counsel and we will have an opportunity to sit down with you and your legal adviser with respect to the language of your release before it is issued. Please let me know at the right time whether or not you will come here or whether we should go to Washington.

X  
 It has occurred to me that the New York Curb Exchange and its members will also be affected by the proposed ruling, inasmuch as many of these issues, such as Cities Service, are undoubtedly listed there. I assume you have no objection to our discussing this matter with the officials of that Exchange as well as with the members of the Loree Committee which deals with the Federal Reserve and Treasury on matters of this general type.

Yours very truly,

*John Haskell*

310563

Authority NND 467105  
By SE NARA Date 10-7-99

RG 131  
Entry FEC-General  
File \_\_\_\_\_  
Box 404

Copy for Mr. Raymond Jones

October 24, 1946.

TO: Mr. John Haskell  
FROM: Arthur L. Rauch

Enclosure to letter  
dated 10/25/46

I suggest the following as explanation of our reclamation Rules and comments concerning the proposal of the Treasury Department to publish lists of "looted" securities, which has been prepared in collaboration with DeWitt C. Jones, Jr.

The Rules of the Board of Governors of the Exchange relating to reclamation of securities provide in general for those cases where under the rules the right is given to a member or member firm of the Exchange to return or to demand the return of securities previously delivered and accepted. These rules state the various circumstances and conditions under which a reclamation may be made. Among these circumstances and conditions is the case where title to a security is called in question or where it is reported to have been lost or stolen. Rule 231 provides that in such a case reclamation may be made without limit of time and the security in question may be returned to the party who introduced it into the market.

Except in cases where peculiar or unusual circumstances exist which would make it inequitable to require the party who introduced the questionable security into the market to take it back and substitute an unquestioned security in its place, the Exchange, in general, applies Rule 231 in accordance with its terms. However, since these rules apply only to members and member firms of the Exchange and the latter has no jurisdiction over non-members, the term "party who introduced it into the market" is necessarily the member or member firm who did so. As a practical matter in such cases, the member or member firm to whom the questioned security is redelivered usually carries insurance against such a situation and, accordingly, if he does the problem then becomes one for the insurance company.

The underlying reason for this rule is that transactions are made in specified issues and not in particular certificates. A purchaser is entitled to receive certificates or bonds as to which no question of title is raised and he should not be put in a position of having to establish his title by legal or other proceedings even though the security in fact may be negotiable, the buyer may be a bona fide purchaser for value and so could ultimately establish a clear title. He should not be burdened with the necessity of doing so.

NOV 25 1946  
FOREIGN FUNDS CONTROL

RG 131  
 Entry FEC-General  
 File \_\_\_\_\_  
 Box 484

The following suggestions could also be made in connection with the proposal:

1. The publishing of a separate list for each issue, and in form which would make possible easy reference thereto, would assist those handling securities to avoid the delivery of "looted" securities.
2. The original lists should be supplemented with notices of changes therein or additions thereto.
3. The prompt discovery of "looted" securities would be facilitated if the transfer agents and paying agents arranged to "stop" transfers or payments.
4. If any restriction is to be placed on the sale, delivery, or transfer of securities on the "looted list" by the Treasury Department, we feel that it is most important that such restriction be very carefully drawn so that no question of the validity of the sale itself could be raised or implied. If the contract of sale should be made illegal or void very serious consequences would result so far as the Exchange market is concerned. In such a case, a purchaser might be in a position to claim, if the market in a security had gone down, that the whole contract was illegal and that, therefore, he was under no obligation to perform, even though the seller were a wholly innocent party. Conversely, a seller, whether innocent or not, might be in the position to disaffirm the contract as illegal, if the market in the security had gone up. We believe that any such restriction should be carefully limited to the performance of the contract rather than to the validity of the contract itself. The effect of the Exchange's Rules on reclamation is that as between members and member firms the delivery of a security which may be reclaimed is not a performance of the contract and that the buyer is entitled to insist upon performance by the delivery of a security which is not subject to reclamation. The same principle, we believe, applies to any governmental rule which would be applicable to parties other than members and member firms of the Exchange.
5. If it is contemplated that the Treasury rules and regulations should contain criminal or other penalties in connection with these looted securities it should be made wholly clear that such penalties would not apply to innocent parties. It may be said, in general, that where securities alleged to have been stolen are bought and sold on the Exchange both the buying and selling broker are wholly innocent and ignorant of the facts. Usually by the time a stolen security reaches the Exchange market it has passed through several innocent hands, since the "fence," with knowledge of the theft does not ordinarily first dispose of the stolen security in an Exchange market. It would be manifestly unfair to subject such innocent parties to such penalties and the danger of their imposition would, we believe, seriously hamper and affect the auction market conducted on the Exchange.

FOREIGN BONDS CONTROL

Arthur L. Rauch

ALR/ev

310565

Authority NNOY67105  
By SL NARA Date 10-7-99

RG 131  
Entry FEC-General  
File \_\_\_\_\_  
Box 404

98992X

✓ NETHERLANDS EMBASSY  
WASHINGTON 9, D. C.

HA-12516

October 23, 1946

MAILING AUTHORITY  
NO: MAIL & FILE  
ANS. ....  
NO ANS. REQ.  
INITIAL. SL  
DATE 10/24/46

Dear Mrs. Schwartz:

In reply to your note of October 17th, No. 98992, I take pleasure in informing you that the questions put therein have been referred to De Nederlandsche Bank and that I shall advise you of its response thereto at the earliest possible time.

Sincerely yours,



Minister Plenipotentiary

Mrs. Margaret Schwartz  
Acting Chief, Licensing Division  
Foreign Funds Control  
Treasury Department  
Washington 25, D. C.

RG 131  
 Entry F.F.C.-General  
 File \_\_\_\_\_  
 Box 404

25

98992 +

OCT 17 1946

TO: Mr. B. van Loan,  
 Commercial Secretary,  
 Embassy of the Netherlands,  
 1470 Euclid Street, N. W.,  
 Washington, D. C.

FROM: Mrs. Margaret Schwartz,  
 Acting Chief, Licensing  
 Division,  
 Foreign Funds Control.

As we advised you at the meeting held in this office on October 11, 1946, this Department would like to have definite information with respect to the Netherlands laws and procedures covering the restitution of securities which were looted in your country during the occupation. Such information is desired in order to help us arrive at a decision as to the extent of the regulations which should be issued by this Government with regard to the securities which are, in accordance with our request, being reported to us by the formerly enemy-occupied countries to have been looted during the occupation.

We should appreciate it if you would furnish us with the following information:

1. Under what circumstances under Netherlands law may a person from whom negotiable securities have been looted recover such securities from the present holder thereof? May he recover such securities upon establishing that the securities had been looted without regard to whether the present holder had acquired the securities with knowledge that they were looted? The applicable provisions of the Netherlands legislation on this point are also desired.

310567

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 Entry FFC-General  
 File \_\_\_\_\_  
 Box 454

- 2 -

2. (a) If the person from whom negotiable securities have been looted cannot recover his securities from the present holder, or cannot locate his securities, is he entitled to any compensation from the Netherlands Government?
- (b) In such case, can he recover damages from any previous transferor whom he can locate, if he can establish that such person was not a bona fide purchaser for value?
3. After the reoccupation of the Netherlands, were all transfers of securities prohibited prior to their registration?
4. What is the procedure if a security is presented for registration concerning which a report has been previously filed by a person claiming that the security was looted from him?
5. What is the procedure if, after a security has been registered, a report is filed by a person claiming that the security was looted from him?
6. Has any list of securities reported to have been looted been published by the Netherlands Government? If so, what regulations have been issued governing dealings in securities on such lists?

*15/M. Schwartz*

*Schwartz and seq. 7.*

*R.L. Jones*  
 HRPollak:ms 10-15-46  
 HRP *ms*

310568

Authority NNO 467105  
By SR NARA Date 10-7-99

RG	<u>131</u>
Entry	<u>F.F.C. - General</u>
File	
Box	<u>404</u>

MAY 7 1946

94961 ↑

Mr. Harold M. Wessel,  
Chief, Foreign Accounts,  
Federal Reserve Bank of New York.

E. W. O'Flaherty,  
Special Assistant to the Director.

Re: Securities Registered in the Names of Nationals of  
Countries Included in General License No. 94.

It has been ruled that securities registered in such names on the effective date of General License No. 94, are blocked on the books of the transfer agent and are subject to the proviso of paragraph 1 of General License No. 94. The question has arisen as to whether licenses such as General License No. 4, and the blanket securities licenses issued under General Authorization No. 53, which authorize the sale of such securities also authorize the transfer of registration of the securities.

You may advise interested persons that in the case of securities registered in the name of a national of a country included in General License No. 94, which are held in a blocked account and are sold pursuant to General License No. 4, or a blanket securities license issued pursuant to General Authorization No. 53, such licenses shall be deemed to authorize the transfer of registration on the books of the transfer agent.

If, however, the securities are registered in the name of a national of a country included in General License No. 94, but are not held in a blocked account, you should advise interested parties that specific licenses are required to authorize the transfer of registration. You are hereby authorized to license such transfers upon application if:

- (a) the securities were acquired by a non-blocked person from the registered owner prior to the blocking of the registered owner;
- (b) the securities were acquired subsequent to blocking but complete and satisfactory information concerning acquisition and ownership of the securities since April 8, 1940, has been submitted.

(Signed) E. W. O'Flaherty

*cc. mailed  
1510  
O'Flaherty  
Jones  
Richards*

*RL Jones*

*TP Nelson*  
TP Nelson: RL Jones: EWO'Flaherty: JSR Richards: mbw 4/29/46

RG 131  
Entry F.F.C.-General  
File \_\_\_\_\_  
Box 484*S. J. Progen*DRAFT  
R. Williams  
October 22, 1945

Since June, 1940 Foreign Funds Control has governed, through the operation of General Ruling No. 5, the importation of securities into the United States. The primary objective of the import program was to prevent the liquidation in the United States of securities which may have been looted by the aggressor nations in order (1) to afford some protection to nationals of the overrun countries and (2) to deprive the Axis governments of much-needed dollar exchange. With the defeat of Germany and Japan and the institution of Allied controls in those countries the second of these considerations has been accomplished.

It is now desirable to remove the controls as rapidly as possible because of their administration entails a very considerable expenditure of manpower on the part of customs, the Federal Reserve Bank, and the Control. Moreover, it is becoming increasingly difficult, now that the war is over, to justify the inconvenience to normal commercial transactions involving the importation and exportation of securities. In addition, it is becoming administratively impractical to enforce as rigorously as is necessary the controls since in many cases, notably those involving the importation from Brazil of coupons detached from Brazilian dollar bonds, it is impossible for the present owner to trace since April 8, 1940 the ownership and location of his securities as the bonds often are traded actively with no record as to previous ownership.

Preliminary discussions bearing on ways of terminating the import controls in a manner that will prevent the disposition of loot on our markets have resulted in the tentative decision that the responsibility of guarding against loot is primarily that of the liberated

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countries. Steps have already been taken by France, Belgium and Norway with respect to this problem as it affects securities issued by the Governments of these countries or their nationals. It is presumed that the Governments of the other liberated countries as well as those of all the United Nations will take similar steps in implementing Resolution VI of the Bretton Woods Conference. Assuming full implementation of the commitments made by the United Nations, it remains only the responsibility of the United States to control securities issued by this government or corporations organized under the laws thereof since more extensive application of the controls will result in duplication of effort. It is proposed, therefore, that General Ruling No. 5 be amended so as to apply to securities issued prior to December 7, 1941 by the Government of the United States, its political subdivisions, and corporations organized under the laws thereof. It is not necessary to control securities issued subsequent to December 7, 1941 since there is small possibility that such securities could have been looted in view of censorship and the fact that there were no major invasions by the aggressors after this date. Securities which are not transferable or to which Form TFEL-2 has been affixed, regardless of the date of issuance, will also be exempted since no value could accrue to any one but the registered owner or his heirs with regard to non-transferable securities while those securities to which Form TFEL-2 has been affixed have been shown to be free of looting. Securities issued by Germany or Japan, their political subdivisions, or corporations organized under the laws thereof, will continue to be subjected to General Ruling No. 5 since there are not at present any other provisions for the control of such

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securities as there are, for example, for French securities.

The curtailment of the import program along the suggested lines will not materially prejudice our obligations in preventing the disposition of loot. It will be moreover, a further demonstration of Treasury's desire to remove as rapidly as possible wartime financial controls, for once the principle on which the suggested amendment is based is accepted it will be logical to revoke Public Circular No. 6 which requires the attachment of Form TFEL-2 to United States dollar obligations issued by the Governments of blocked countries or nationals thereof, and to broaden General License No. 87 in order to license under Section 2A(2) of the Order the purchase of any securities other than those to which General Ruling No. 5 is applicable.

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March 7, 1946

MEMORANDUM FOR THE FILES

Re: Securities Registered in the Name of Nationals of Countries Included in General License No. 94.

It has been ruled that such securities are blocked on the books of the transfer agent pursuant to paragraph 1 of General License No. 94. The question has arisen as to whether securities so registered may be automatically transferred by the transfer agent if sold pursuant to existing licenses; namely, General License No. 4 or the blanket securities license issued under General Authorization No. 53. The policy to be followed was discussed by Messrs. Arnold, Jones and Nelson. It was agreed and is recommended that the action indicated below be taken on the following categories of cases:

1. The securities are presently held in a blocked account and
  - (a) are registered in the same name as that in which the account is held,
  - (b) are registered in a different name but such registered owner is also a national of a country included in General License No. 94.
  - (c) are held in account of a national of a blocked country (Switzerland for example) but registered in the name of a national of a country included in General License No. 94.

It is believed that there is little possibility of looted securities having been deposited in blocked accounts and, as eventually the proceeds resulting from the sale of such securities will be certified under General License No. 95 or a similar procedure, it is recommended that a ruling be made that if such securities are sold pursuant to a general or blanket license that such license shall be deemed to also authorize the transfer on the books of the transfer agent.

2. The securities are not in a blocked account and it is alleged that they are owned by non-blocked nationals.

It was agreed that in such cases specific licenses would be necessary to authorize the transfer on the books of the transfer agent and (1) if the securities were acquired by a non-blocked person from the registered owner prior to the blocking of the registered owner, favorable consideration would be given to applications requesting such license, and (2) if the securities were acquired subsequent to blocking, such applications would be considered and, subject to the usual information concerning acquisition and ownership on and since April 8, 1940, may be approved.

9 Concurrence

*J. L. Jones*

*E. W. Flaherty*

*Elting Arnold*

*D. S. Richards 4/2/46*

*T. P. Nelson*

T. P. Nelson

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AIRGRAM

*Sec. Program*

## EMBASSY

## THE HAGUE

## FOR CLERK FROM TREASURY

1. With reference to your inquiry concerning the collection of income on securities physically situated in the Netherlands we are prepared to add the following sentence to paragraph 4 of the proposed defrosting license:

"The provisions of Section 21 of the Order and of General Ruling No. 5 are waived with respect to any security to which is attached a certification ~~re-~~quired under proviso (b) of paragraph 1 hereof."

2. We believe that in the case of registered securities the certification issued by the Netherlands Government to meet the requirements of proviso (b) of paragraph 1 of <sup>Netherlands defrosting lic</sup> General License No. 32 should be sent to the person within the United States with whom the securities are registered and a duplicate certification should be affixed to the security itself. This will release the income on the registered security whether or not it is physically sent to the United States and will also free the security from our import controls and other special restrictions now imposed by this Department on securities. In those cases where the accrued income on such security has been transferred to a domestic bank for credit to a blocked account as, for example, under General License No. 27, it

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*either the entire acc. or the particular accrued*

will also be necessary for that domestic bank to receive a certification covering the income. In the case of bearer securities, bonds, coupons, etc. the certification should be affixed to the relevant security, bond, or coupon prior to its being sent to the United States. This will permit the importation into the United States of any such item and will free it from any other special restrictions now imposed by this Department on securities. Before issuing any certification the Netherlands authorities will of course be expected to trace the ownership back to the effective date of the Order.

3. Netherlands authorities have indicated that it will take a considerable period to investigate the ownership of the Netherlands administration certificates which were issued by Netherlands administration offices and which represent U. S. dollar securities. They are anxious, however, to obtain the transfer to the Nederlandsche Bank of the income which has accrued on the securities registered in the names of the administration offices. They state that no guilder equivalent payments would be made to any holder of administration certificates until the Netherlands authorities had investigated the ownership of the certificates. We have informed them that we would have no objection to their certifying, once the Netherlands defrosting license is issued, a substantial part of the accrued income, thus permitting it to be transferred to the account of the Nederlandsche Bank, if the Netherlands authorities will refrain from certifying a sufficiently large percentage to cover those securities in which there is likely to be an enemy interest and if they will give to this Department a guarantee that the dollars

Authority NND 467103  
By SR NARA Date 10-7-99RG 131  
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necessary to cover any deficit will be provided should their investigations reveal a higher percentage of enemy interest than estimated.

4. Please discuss the above with Netherlands authorities and if they agree please obtain in writing the guarantee required under paragraph 3 above and forward it to us. Your comments and those of the Netherlands authorities concerning both 2 and 3 above will be appreciated.

5. Repeated to London for Taylor.

JR:Richardson 10-11-45

Authority NNO467105  
By SE NARA Date 10-7-99

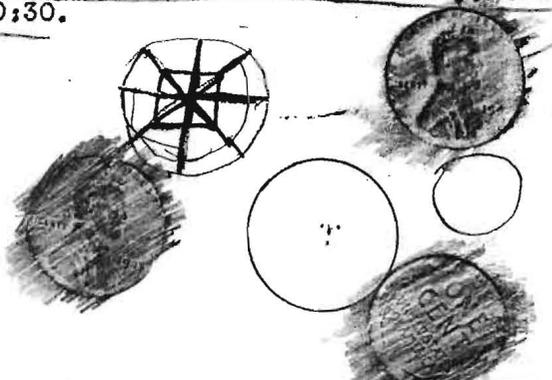
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FOREIGN FUNDS CONTROL

*Sec program*

To: Mr. Williams 619 DNB  
(1) ..... (Room) (Bldg.)  
(2) ..... (Room) (Bldg.)  
(3) ..... (Room) (Bldg.)

Attached are drafts of proposed amendments to General Ruling No. 5 and General License No. 87. There will be a meeting in Mr. Richards' office with respect to these documents on Friday, Oct. 12, at 10:30.



From: R. L. Jones ..... 10/11/45  
..... (Date)  
..... (Room) ..... (Bldg.)

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R. JONES  
10/10/45

## AMENDMENT OF GENERAL RULING NO. 5, AS AMENDED

General Ruling No. 5, as amended, is hereby further amended to read as follows:

REGULATIONS RELATING TO IMPORTATION OF SECURITIES AND CURRENCY

(1) Prohibition With Respect to Importation of Securities or Currency. Except as authorized herein, or as authorized by a license or other authorization of the Secretary of the Treasury, the sending, mailing, importing, or otherwise bringing into the United States from any foreign country of any securities or currency specified in (a), (b) and (c) hereof or the receiving or holding in the United States of any such securities or currency sent, mailed, imported, or otherwise brought into the United States from any foreign country is prohibited.

- (a) Securities represented by certificates that are in bearer form or that are transferable or assignable, unless Form TWEL-E has been attached, that were issued prior to December 7, 1941 by the Government of, or any state, territory, district, county, municipality or other political subdivision of (including agencies or instrumentalities of the foregoing), or by corporations, partnerships or other organizations organized under the laws of, the United States.
- (b) Securities issued or guaranteed by the governments of Germany or Japan, including political subdivisions thereof, or by corporations, partnerships or other organizations organized under the laws of Germany or Japan.
- (c) United States currency in denominations of \$50 or more.

(2) Declaration and Surrender of Securities and Currency by Persons Entering the United States. Any individual entering the United States from any foreign country shall declare and surrender to the collector of customs or his representative at the port of entry, before the examination of his baggage or effects has begun (or, if his baggage is not subject to examination before customs clearance), any securities or currency which he

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has on his person or in any of his baggage or effects that are subject to this ruling. If the port of entry is in the Panama Canal Zone, such securities and currency shall be declared and surrendered to the customs officer or other representative of the Governor of the Panama Canal Zone at such port. Securities and currency so declared and surrendered shall not be deemed to have been imported or brought into the United States in violation of this general ruling, but nevertheless shall be subject to all other provisions hereof.

(3) Inspection by Customs Officers and Postal Employees. Any articles sent, mailed, imported, or otherwise brought into the United States from any foreign country which, in the opinion of customs officers or postal employees contain any securities or currency, shall be subjected to customs inspection in accordance with the Customs Regulations of 1943 (or, if arriving in the Panama Canal Zone, in accordance with customs regulations in effect in the Panama Canal Zone) and the Postal Laws and Regulations of 1940. Securities or currency that are subject to this ruling and which are found in any article opened by, or under the supervision of, a customs officer or postal employee shall be taken up by or surrendered forthwith to such customs officer or postal employee. Any securities or currency contained in any article sent or mailed to the United States, otherwise than as baggage, shall not be deemed to have been sent or mailed in violation of this general ruling if the outermost wrapper or container in which they are enclosed is labeled in such a manner as to notify the customs officers or postal employees of its contents, or if the attendant circumstances otherwise disclose or indicate that no attempt has been made to avoid customs inspection of such securities or currency. Such securities and currency nevertheless shall be subject to all other provisions hereof.

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DRAFT  
 R. Jones  
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AMENDMENT OF GENERAL LICENSE NO. 87

(1) Transactions licensed under Section 2A of the Order. A general license is hereby granted licensing any transactions referred to in Section 2A of the Order with respect to all securities except:

- (a) Securities represented by certificates that are in bearer form or that are transferable or assignable, unless Form TFR-2 has been attached, that were issued prior to December 7, 1941 by the Government of, or any state, territory, district, county, municipality or other political subdivision of (including agencies or instrumentalities of the foregoing), or by corporations, partnerships or other organizations organized under the laws of, the United States.
- (b) Securities issued or guaranteed by the governments of Germany or Japan, including political subdivisions thereof, or by corporations, partnerships or other organizations, organized under the laws of Germany or Japan.

(2) Certain additional transactions authorized under Section 2A(2) of the Order. Under Section 2A(2) of the Order this general license also authorizes the acquisition by, or transfer to, any person within the United States of any interest in securities or evidences thereof physically situated in Great Britain, Canada, Newfoundland or Bermuda.

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RJONES  
10/4/45

## MEMORANDUM FOR THE FILES

Subject: Treatment of dollar securities located outside of the United States.

A number of requests have been received suggesting that this office establish a procedure whereby securities held in Europe may be imported into the United States, as well as payment of dividends due on stock certificates located in the blocked areas.

There are two problems that must be considered in dealing with any plan for the importation of securities or the payment of dividends on securities located outside of the country. There is every reason to believe that the enemy holds dollar securities in the blocked areas which were acquired legitimately, as well as securities that have been looted. Treasury representatives in Germany and in neutral countries in Europe have been requested to furnish information on the latter problem. No replies have as yet been received to these questionnaires.

While the Treasury representatives are investigating the problem of looted securities and reporting on their findings, there does not seem to be any reason why a procedure cannot be established whereby dividends can be paid on securities that are certified by an appropriate governmental agency of countries to which defrosting licenses are issued. In the case of securities which are to be imported into the United States, it would seem that a procedure could be worked out whereby an appropriate governmental agency in all blocked countries, except Germany and Japan, could forward a certification on securities so imported. The details of the plan would operate somewhat as follows:

- (1) With respect to dividends payable on <sup>registered</sup> securities that are located in the countries to which defrosting licenses are issued, the licenses should be amended to provide for certification by the government to the transfer agent that the enemy has no interest in such securities. Or, we could narrow the field by saying that the certification can be made only with respect to securities that are located in the country and in which only persons domiciled and residing in the country have an interest. This latter suggestion would of course rule out the possibility of securities going from neutral countries to the countries that receive defrosting licenses. In either case, after the transfer agent receives the certification, dividends could go forward, not-

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withstanding the fact that the securities are not in this country. At the time the certification is made a form prepared by the government of the country making the certification could be attached to the certification and thereby make it possible for the certification to be forwarded to this country at any subsequent date.

(2) With respect to bearer securities that are located in blocked countries, except Germany and Japan, it is recommended that arrangements be worked out immediately whereby an appropriate governmental agency of all such countries be authorized to certify as to non-enemy interest in securities to be imported into the United States. Immediately upon the establishment of such a procedure General License No. 84 should be amended to provide that securities bearing a non-enemy declaration appropriately signed by a governmental agency of the blocked countries, shall not be subject to the provisions of General Ruling No. 5. This will of course apply to the stock certificates to which a form has been attached as outlined in (1) above.

The procedure outlined above should be put into effect in the case of (1) by amending the defrosting licenses and will become effective with respect to each blocked country as they receive a defrosting license. In the meantime, however, if stock certificates are to be forwarded from countries that have not received a defrosting license, procedure (2) could be adopted. In the case of plan (2) covering bearer securities, it is recommended that the plan be adopted immediately and all countries, except Germany and Japan, be advised of our willingness to adopt this ~~max~~ procedure.

In the case of countries that are not blocked where General Ruling No. 5 applies, it is recommended that a non-enemy declaration accompany securities that are imported. The non-enemy declaration should be countersigned by a recognized bank in the country from which the securities were received. This procedure should apply to all securities, both registered and bearer.

The ultimate solution with respect to revoking General Ruling No. 5 should await answers to our questionnaires in regard to the looting of securities by the enemy countries.

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Dear Grvis:

As you know it is our desire to lift financial controls as rapidly as possible provided, however, we do not do anything to aid or benefit the enemy or persons acting for the enemy. We are now considering the problem of lifting the import control provided for in General Ruling No. 5 on securities. One of the principal problems which immediately comes to mind is that of the control of securities which may have been looted by the enemy.

In view of Resolution No. VI of the United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, which states in part that "Whereas, the United Nations have declared their intention \* \* \* to prevent the disposal of looted property in United Nations markets", we believe that we should confine our study to the possible disposal in this country of looted U. S. dollar securities.

We have reason to believe that persons in Europe held substantial amounts of U. S. dollar securities. When the Germans occupied Europe the people were reluctant to destroy the securities held by them. Therefore, the securities became subject to looting by the Germans. It is possible, however, that due to our regulations, namely, the import control and the requirement that FFEL-3 be attached to all stamped securities, there may not have been extensive looting with respect to U. S. dollar securities.

We intend to ask U. S. representatives in the various liberated areas to inform us on the following points:

- (1) What steps, if any, have been taken by the governments of the liberated areas to deal with the problem of looted securities?
- (2) Have governments or persons of areas that were occupied reported that securities were looted?
- (3) If say please indicate the amount as well as the types of securities that were looted; i.e., dollar, sterling, franc, bearer, registered, stamped (within the meaning of the Order), certificates of deposit, etc.
- (4) Was it the practice before the war of the countries which were occupied to place stamps, within the meaning of the Order, on

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Authority NNO 467105  
By SR NARA Date 10-7-99

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foreign securities, meaning, of course, among others, U. S. doll securities?

(5) Has it been in recent years the general practice of persons in Europe holding United States stock certificates in Europe to have them registered in the name of (a) the beneficial owner; (b) nominee in Europe; or (c) nominee in the United States?

We believe that perhaps you may be able to assist us in this matter by furnishing information which may be available in Germany. We have in mind the following points:

(1) You mentioned while you were here that a substantial quantity of securities have been found in Germany. We would like to know if there were any U. S. dollar securities among those securities found, and if so do they bear stamps, within the meaning of the Order?

(2) Have any directives been discovered as to what securities were to be taken by the German occupying forces?

(3) From an examination of the records is there reason to believe that the Germans disposed of securities through the neutral countries?

(4) Is there reason to believe that persons who were removed from occupied areas to Germany owned securities and if so were the securities confiscated by the Germans?

Depending on the information received from you and from our representatives in the liberated areas, we believe that it will be possible for us to determine the nature and size of our problem and steps which must be taken to solve it.

letter

A cable covering this memorandum will be dispatched to the various areas including Germany.

Sincerely yours,

(Signed) Michael L. Hoffman

Michael L. Hoffman  
Acting Director

*By mailed 8/11/45  
from A. I. Jones' office  
A. C. Jones*

Mr. Orvis A. Schmidt,  
U. S. Group CC (1),  
Finance Division,  
A.P.O. 742, New York, N.Y.

*Cleared in principle  
with M. L. Hoffman*

*R. I. Jones*  
R.I. Jones: dic 8/10/45 *Alaheuty C.A.*

*8/14/45  
3 extra copies  
sent to R. I. Jones:*

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*Securities Prog.*

Copy

## MEMORANDUM

July 25, 1945

Subject: Proposal for Dealing with the Problem of Securities Located Outside the United States

Attached is a draft of a proposed program for lifting the provisions of import controls over securities, which has been prepared by Ray Jones at my request. It should be recognized that this is a first draft and has been prepared largely to serve as a basis for a general discussion of this problem in the hope that agreement can be reached at an early stage concerning a definitive program to handle this problem. In transmitting this memorandum to Mr. Hoffman, I am requesting that if he agrees, he set a meeting to discuss the problem.

J. S. Richards

cc: Messrs. Hoffman, JFriedman, Meskovitz, Arnold, RLJones, O'Flaherty,  
Mrs. RShwartz and Mrs. JLewis

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DRAFT  
 RLJones  
 7/19/45

A PROPOSED PROGRAM FOR LIFTING

THE PROVISIONS OF IMPORT CONTROLS OVER SECURITIES

Reference is made to Resolution No. VI of the United Nations Monetary and Financial Conference, Bretton Woods, New Hampshire, and attention is directed to that part of the Resolution that reads as follows:

"Whereas, the United Nations have declared their intention \* \* \*

to prevent the disposal of looted property in United Nations markets."

Accordingly, it can be presumed that steps have been taken by the Governments of the United Nations to prevent the disposal of looted property in each of their countries. The members of the United Nations are also interested in uncovering enemy property held in their countries direct or through cloaks. This would in effect mean that the United States should not have to concern itself with securities imported from any member of the United Nations, particularly with respect to securities issued by the governments of such countries or persons within such countries. With respect to those U. S. dollar securities which are located outside of the United States, and it is found that an enemy has an interest in the securities, there will of course be a conflicting Custodian problem.

When informing members of the United Nations that we do not propose to maintain controls over securities issued by them or their nationals, we would call attention to Resolution VI of the United Nations Conference, as well as the fact that we presume they will examine securities held within their countries for enemy interests.

In view of the fact that very few, if any, of the countries which are not members of the United Nations have dollar securities outstanding, it is believed that we should confine our problem with respect to looted securities to those issued by the United States Government, political subdivisions thereof and corporations organized under the laws of the United States.

Certain information has been submitted by Monetary Research which indicates that our primary problem, insofar as U. S. dollar securities which were located in Europe during occupation and, therefore, subject to looting, concerns stock certificates. The statistics supplied by Monetary Research,

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which are based on TFR-300 reports, and information received from the Department of Commerce indicate that the total U. S. dollar bonds held in European areas which were overrun by the Axis total something less than \$200,000,000, (primarily corporation bonds), whereas the market value of stock which was subject to looting would be approximately \$300,000,000. We will, therefore, consider the problem of stock certificates first.

#### Stock Certificates.

In canvassing banks and brokerage houses in New York, it was found that it has not been the practice for several years to have stock certificates registered in their name and endorsed in blank for sale in Europe. Therefore, it can be assumed that stock certificates of U. S. corporations located in Europe are probably endorsed in the name of a blocked national, either the beneficial owner or a nominee.

At the present time General Ruling No. 3 prohibits all transactions, including purchase, sale, transportation, importation, exportation, etc., with respect to securities registered in the name of a blocked national. It would be a simple matter to announce that all certificates registered in the name of blocked nationals with addresses of record in areas which were occupied by the Axis must be submitted for re-registration, requiring that the endorsement be guaranteed by the central bank or a designated government agency within the country of address. The guarantee of the endorsement would carry with it a certification that no national of a real enemy country has had any interest of any nature whatsoever, direct or indirect, in the securities on or since April 8, 1940. At the time we call for the re-registration of the certificates, we will announce that a period of six months will be allowed, in which time all such certificates must be re-registered, after which time the issuing corporations will be required to give this Department a complete description, including the serial numbers, of the certificates not re-registered. The announcement should state that all such certificates will be considered as having an enemy interest therein and be treated accordingly. The Treasury Department or A.P.C. could vest the stock on the books of the corporation,

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and by this method render the old certificates that are registered in the name of a person with an address of record in a country that was occupied by the Axis and not re-registered as worthless. The transfer agents should be advised that they should attempt to communicate with the registered holders and insist that their stock certificates be presented for re-registration.

The procedure outlined above would of course necessitate the shipment of many certificates back to the country of the address of record, in order that the central bank or the designated government agency could guarantee the endorsement. It is believed, however, that such banks or government agencies would be in the best position to give us what in effect would be a non-enemy declaration. A provision could be made with respect to those securities that are located in the United States that an application be presented to a Federal Reserve Bank for permission to re-register.

#### Bonds.

The question of bonds located in areas overrun by the Axis countries is a much more difficult problem than stock certificates. The following suggestions have been made with respect to controls or procedures which may be followed in order that General Ruling No. 5 may be lifted without danger of looted bonds finding their way into the markets of this country.

(1) It has been suggested that a ruling be issued providing that persons who have reason to believe that bonds which come into their possession have been within areas which were occupied by the enemy may not enter into any transaction with respect to such bonds until they are fully satisfied that there has been no real enemy interest in them. Such a ruling would make it possible for paying agents to withhold payment on bearer instruments until such time as they are satisfied as to ownership. This plan is of course a face saving device and may or may not show up looted securities.

(2) This proposal is much more complicated and requires a certain amount of explanation with respect to the technical handling of securities. When coupons are presented to the banks for collection they are forwarded

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by such banks to the paying agents who immediately pay the presenting bank. The paying agents, at regular intervals from 3 to 6 months, deliver the coupons to the trustee of the bond issue. It is the trustee's function to put the coupons in numerical order and make a record of the serial numbers of the coupons, which incidentally is the same as the bonds, and prepares what is known as a cremation certificate. This certificate may cover coupons of various interest periods. They are, however, segregated according to their due date. The coupons are then cremated and the certificate filed. Such a procedure makes it possible for the trustee to compile a list of the serial numbers of bonds on which coupons have not been presented for a given period. It is obvious that during the occupation of Europe by the Axis, coupons that were located in those areas were not presented for payment and cremation. It would, therefore, be possible to prepare a list of the serial numbers of bonds which, because of the fact that the coupons have not been presented, can be presumed to be in Europe.

*Take a date of  
maturity after  
C.C. 8A*

The second step in this procedure would be to call for submission of bonds to the Embassies throughout the world who would require a non-enemy declaration by a central bank or appropriate government agency of the country, and after receiving such a declaration would record serial numbers of the bonds submitted. These serial numbers to a large extent would be found on the list of bonds, coupons of which have not been presented. Since these bonds could be presumed to be clean the numbers could be stricken from the list. The residue would represent serial numbers of the bonds which could be presumed to have an enemy interest therein and therefore treated accordingly. The bonds could be vested and new certificates issued and in any case a stop list could be prepared which would be checked in the same manner that the list of stolen bonds is now checked. This method would not prevent interest being paid on the bonds in every case, since coupons are not always checked against the stop list until they have been put in numerical order by the paying

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agent or trustee, during which process the identity of the person submitting the coupons is lost. One answer to this last problem would be to have persons presenting the coupons for payment to endorse them and thereby make it possible for the paying agent or trustee to trace ownership of the coupons.

It has been found that a procedure of preparing cremation certificates is followed by most corporations, but in the case of bonds issued by the United States Government no such record is maintained.

It is of course recognized that many bond issues as well as stock issues are outstanding in which there is no foreign interest and therefore no certificates would be located in blocked countries. As a means of narrowing the field and, therefore, the work involved, it has been proposed that a list of issues in which blocked nationals may have an interest be compiled from records which it is understood are available at the Bureau of Internal Revenue. Such a list would be based on foreign interest and not the location of the securities. Such a list would of course narrow the field to a substantial extent.

The following suggestions have been made which if adopted would cover both stock certificates and bonds:

(1) A form similar to TFEL-2 could be attached to all U. S. securities located outside of the United States based on a certification of non-enemy interest. This plan would necessitate continuing an import control on securities to which the form has not been attached. It would also necessitate the attachment of a form to any securities shipped out of the United States so that such securities could return without question. The principal fault of this proposal lies in the fact that the import controls would have to be maintained, which obviously cannot be very effective without Censorship.

(2) A proposal has been made that all certificates dated prior to December 7, 1941 representing U. S. securities, be called for reissuance. This proposal would narrow the problem substantially insofar as stock certificates are concerned. It would not, however, effect the problem

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with respect to bonds, since many issues which are now outstanding were outstanding before December 7, 1941.

(3) Form TFEL-2, or some similar form, could be attached to all certificates representing U. S. securities, regardless of where they are located. In those cases where the certificates are located in foreign countries, it would be necessary to get a non-enemy declaration before the form is attached. A very short period of time could be given for the attachment of the form to securities located in the United States. After a given period of time all certificates to which the form has not been attached could be declared invalid. This plan would seem to involve a prohibitive amount of work and expense.

(4) A feel proof method of handling the problem of looted or enemy owned securities has been considered and Mr. Lockheim of the Securities and Exchange Commission has indicated that he personally feels that it is the real answer to our problem. This plan would involve the calling of all U. S. securities which are not outstanding and the issuance of new certificates in place of the old ones, or authentication of the old certificates. After a given period of time all trustees or issuing agents, as the case may be, will be called upon to submit descriptions of the certificates which have not been submitted. These certificates could be considered as enemy owned and treated accordingly.

Authority NND 967105  
By SE NARA Date 10-7-99

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*Discussed  
with Brooks  
duplicate #*

*File*

TO THE PRESIDENTS OF ALL THE FEDERAL RESERVE BANKS

Following is the text of an announcement which the Treasury Department received today from the Belgian Embassy in Washington. You should circulate the announcement to all banking institutions in your district and to all other persons therein, who, in your judgment, may be interested. Your circular should read substantially as follows:

The Treasury Department has advised us under date of \_\_\_\_\_ that on such date it received the following announcement from the Belgian Embassy in Washington:

**"CONVERSION OF BELGIAN BANK NOTES AND DECLARATION AND DEPOSIT OF BELGIAN BEARER SECURITIES"**

**I. Conversion of Belgian Bank Notes**

Under a Belgian decree-law dated October 6, 1944, paper currency issued prior to October 9, 1944, by the National Bank of Belgium in the denominations of 100, 500, 1,000 and 10,000 francs ceased to be legal tender and to be negotiable as of October 9, 1944, and were withdrawn from circulation in Belgium.

Arrangements have been made whereby up to and including October 15, 1945, all such called notes held in the continental United States and Hawaii shall be forwarded to the Belgian consulates accompanied by a declaration, on forms copies of which are obtainable from the Belgian Embassy or consulates. Information required in the declaration pertains to the ownership and location of the currency and the date and manner in which it was acquired. In addition, the owner is required to establish that the banknotes were acquired without violating the laws and regulations of Belgium and that they do not belong to and were not received from nationals of any country at war with Belgium or her Allies.

Residents in the United States shall also declare Belgian Banknotes owned by them outside of the United States on October 9, 1944, to which no third party had access.

If the Belgian authorities are satisfied that the notes are genuine and were legitimately acquired, the equivalent of the banknotes, in respect of which the owner has complied with the above

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requirement, will be credited to a blocked account in the name of the owner mentioned in the declaration with the "Office des Cheques et Virements Postaux" (Office of Postal Checks and Transfers), Brussels, Belgium.

After October 15, 1945 no declaration and deposit will be accepted.

The location of the Belgian consular offices and the areas served by them are as follows:

Belgian Embassy, 1715 - 22nd Street, N. W., Washington, D. C.:  
 District of Columbia.

Belgian Consulate General, 50 Rockefeller Plaza, New York, N.Y.:  
 New York, Rhode Island, Maine, Vermont, New Jersey, Delaware,  
 Connecticut, Massachusetts, New Hampshire, Pennsylvania, Maryland,  
 Virginia, West Virginia, North Carolina, South Carolina.

Belgian Consulate General, 333 North Michigan Avenue, Chicago,  
 Ill.: Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan,  
 Minnesota, Missouri, Nebraska, North and South Dakota, Ohio,  
 Wisconsin, Wyoming.

Belgian Consulate General, 4630 St. Charles Avenue, New Orleans,  
 La.: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi,  
 New Mexico, Oklahoma, Tennessee, Texas.

Belgian Consulate General, 369 Pine Street, San Francisco,  
 Calif.: Arizona, California, Idaho, Montana, Nevada, Oregon, Utah,  
 Washington, Alaska and Hawaii.

## II. Declaration and Deposit of Belgian Bearer Securities

Pursuant to a decree of the Belgian Government of October 6, 1944, holders of Belgian bearer securities expressed in Belgian francs are required up to and including November 15, 1945, to deposit their certificates with member banks of the Federal Reserve System and the Bank Belge pour l'Etranger (Overseas) Ltd., 67 Wall Street, New York 5, N. Y. Deposits must be accompanied by a declaration on a special form which is obtainable from and, upon execution shall be forwarded to, the Bank Belge pour l'Etranger (Overseas) Ltd. by the banks receiving them. Necessary instructions will be supplied with the forms.

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The securities may not be disposed of until it has been shown, to the satisfaction of the Belgian Ministry of Finance, that they have been continuously the property of Belgian, Allied or neutral subjects since May 10, 1940.

Securities not declared and deposited within the required time will be cancelled and the value thereof will be forfeited to the Belgian State.

Securities which must be declared and deposited are as follows: All Belgian bearer securities of whatever denomination issued by authorities of Belgium or the Belgian Congo, by Belgian limited companies, Belgian trust companies, Belgian Congo limited companies, and the Kivu National Committee. Included also are preference shares of "Societe Nationale des Chemins de Fer Belges" Dutch and Swiss series, and Belgian securities issued abroad in Belgian francs.

The following securities need not be declared and deposited:

- (a) bearer bonds with a nominal value not exceeding 100 francs;
- (b) bearer bonds in default since prior to January 1, 1930;
- (c) stocks of companies organized prior to January 1, 1930, on which no dividend has been paid since that date and the value of which did not exceed 100 francs on August 31, 1944;
- (d) stocks of companies in liquidation, the value of which did not exceed 100 francs on August 31, 1944;

as well as all bonds expressed in currencies other than Belgian francs, or bonds expressed in Belgian francs and one or more foreign currencies.

Securities not registered within the required time will be cancelled and the value thereof will be forfeit to the Belgian State."

\* \* \*

In order to facilitate the conversion of Belgian franc currency in accordance with the program, the Treasury Department has issued a license to the Belgian Embassy authorizing all transactions incident to the conversion by such Embassy or its agents of Belgian franc currency. Such license also authorizes withdrawals of Belgian franc currency from blocked accounts for the purpose of complying with the

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procedure described above. In connection with the census of Belgian bearer securities, attention is drawn to Treasury Department General License Number 1A.

Additional copies of this circular will be furnished upon request.

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FORM TFEI-1 (SPECIAL)  
 TREASURY DEPARTMENT  
 Foreign Funds Control

License No. W-2546

Date: 14 JUN 1945

**L I C E N S E**

(GRANTED UNDER THE AUTHORITY OF EXECUTIVE ORDER NO. 6389  
 OF APRIL 10, 1940, AS AMENDED, AND THE REGULATIONS  
 AND RULINGS ISSUED THEREUNDER)

To The Embassy of the French Republic  
 (Name of Licensee)

Washington, D. C.  
 (Address of Licensee)

Sirs:

1. The following transactions are hereby licensed:

- A) All transactions incident to the exchange by the Embassy of the French Republic, Washington, D. C., or any agent or agency thereof, of (i) Bank of France currency notes, (ii) tricolor currency issued for the use of the Allied Expeditionary Forces in France, and (iii) short-term French Government securities, held by persons within the United States.
- B) Withdrawal of such currency or securities from blocked accounts for the purpose of effecting such exchange, provided that any currency or securities received in the United States as the result of the exchange are deposited in the same blocked account as that from which the original currency or securities were withdrawn.

2. This license is subject to the condition, among others, that all persons concerned will comply in all respects with Executive Order No. 6389, of April 10, 1940, as amended, the Regulations and Rulings issued thereunder and the terms of this license.

3. This license is not transferable, is subject to the provisions of Executive Order No. 6389 of April 10, 1940, as amended, and the Regulations and Rulings issued thereunder and may be revoked or modified at any time in the discretion of the Secretary of the Treasury acting directly or through the agency through which the license was issued, or any other agency designated by the Secretary of the Treasury.

(Signed) Michael L. Hoffman

Michael L. Hoffman  
 Acting Director

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## MEMORANDUM FOR THE FILES

**Subject:** Proposals looking toward the reduction and eventual elimination of Treasury's securities program and a proposed securities program for liberated and other countries.

**I. INTRODUCTION**

The reduction and eventual elimination of Treasury's securities program should be accomplished as rapidly as possible but in a manner consistent with the principal objectives of that program; i.e., the prevention of realization on looted securities and restitution to their lawful owners, and the location, here and abroad, of enemy-owned securities for the purpose of vesting. As one of the major reasons for our controls over securities was the protection of property of nationals of enemy-occupied countries, it seems only reasonable that to the extent possible such countries should assume the principal burden of whatever future controls are necessary. However, inasmuch as most, if not all, of such countries will institute regulations controlling securities issued under their law or owned, or held, by their nationals, the proposals outlined in this memorandum are not believed to be burdensome. Consequently, governments of countries as they are liberated and establish their own controls should be urged to assume the burden both of protecting their own nationals and assisting in unwinding enemy-owned securities. Our controls, under such circumstances, should be relaxed without, however, losing sight of the necessity of integrating them with those of other countries and continuing to search out the interests of the enemy.

The disposition of enemy-owned securities, wherever found, is a problem for later determination.

**II. REVIEWING UNITED STATES CONTROLS**

Our principal controls over the importation, exportation and dealings in securities are found in the public documents briefly described below. Many confidential documents define our policies and lift our controls in certain areas but a discussion of such documents is not believed necessary in this memorandum.

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Executive Order No. 9829

Sec. 18. Prohibits transfers, withdrawals, exportations or dealings in any evidences of indebtedness, or evidences of ownership of property, by any person within the United States, if such action is by or on behalf of, or involves property of a blocked country or national thereof.

Sec. 2A(1). Prohibits the acquisition, etc., of securities on which there is a tax, or other stamp of a foreign country named in the Order.

Sec. 2A(2). Prohibits the acquisition by, or transfer to, any person in the United States of any security not physically in the United States.

General Ruling No. 1

Prohibits any dealings in securities registered in the names of blocked nationals.

General Ruling No. 5

Prohibits the importation into the United States of any securities from any foreign country other than Great Britain, Canada, Newfoundland or Bermuda.

General Ruling No. 7

Extends the provisions of General Ruling No. 5 to securities entering the United States from the Philippine Islands and the Panama Canal Zone.

General Ruling No. 6

Authorizes the delivery of securities held under General Ruling No. 5 by Federal Reserve Banks to domestic banks to be held in General Ruling No. 6 accounts.

General License No. 84

Exempts from General Ruling No. 5 all United States Defense and War Savings Stamps and Bonds and all other securities which are obligations of the United States if issued after December 7, 1941.

General Ruling No. 54

Prohibits the export of any securities to any blocked country (with the exception of China and members of the generally licensed trade area).

Public Interpretation No. 6

The general licenses (General Licenses Nos. 32, 33, 49, 50, 52 and 70) do not authorize the export of securities.

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General License No. 25

Removes the prohibitions of Section 21(1) of the Order if Form TFL-2 is attached.

General License No. 27

Removes the prohibitions of Section 21(2) of the Order with respect to (i) securities in Great Britain, Canada, Newfoundland or Bermuda, and (ii) securities issued in any other member of the generally licensed trade area which are within, and payable solely in the currency of, the country where issued, except securities issued by a person engaged in the securities business.

General License No. 4

Authorizes the sale of securities on a national securities exchange except securities registered in the name of a blocked national.

Public Circular No. 6

Limits the purchase for blocked accounts of securities issued by governments of blocked countries, or corporations formed under the laws of such countries, to those securities to which Form TFL-2 has been attached.

General Ruling No. 2

Prohibits the transfer of stock certificates from or into the names of nationals of Norway or Denmark and the delivery at out of, or receipt in, custody accounts of securities held in custody for nationals of Norway or Denmark.

Public Circular No. 14

Limits purchases by blocked nationals to not more than  $\frac{1}{8}$  of any one issue of a corporation.

General Ruling No. 17

Applies to securities in accounts in the names of banks or other financial institutions in blocked countries and prohibits the purchase and limits sale of securities and the receipt of income with notification or certification as to ownership.

General Licenses Nos. 49, 50, 52 and 70

Transactions effected under these general licenses are exempted from the provisions of General Ruling No. 17.

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### III. PROPOSED SECURITIES PROGRAM FOR LIBERATED AREAS

1. All imports and exports of securities, except under license, should be prohibited.

As a first step in any securities program for a liberated area, a prohibition against any movement in securities across the borders of the area is believed essential. This is essential from the standpoint of an exchange control program and to prevent any movements in looted securities or the hiding of enemy-owned securities. This prohibition could be removed after other parts of the program are completed.

2. All dealings in securities, except under license, should be prohibited.

While this prohibition may seem drastic, it would aid in preventing people from disposing of their securities to avoid registration, the disposition of suspect securities, and would assist in revalidation. This prohibition could be lifted as soon as securities have been proved up but should be continued with respect to any security that does not have a form attached comparable to our TPEL-2 (hereinafter called "foreign TPEL").

3. All persons whose securities have been looted or "purchased" under duress or quasi legal methods should be requested to report such facts.

With such information, the government of the area would be in a position to advise all issuing corporations, transfer and paying agents, and similar persons, of the claims of their nationals.

4. A census of all securities, domestic and foreign, should be made.

The need for a census appears to be universally accepted. It would be of value for exchange control purposes and in uncovering cloaked enemy-owned securities.

5. The issuance of bearer shares should be prohibited.

The European practice of issuing bearer rather than registered shares has aided and abetted those who wish to control or invest without disclosing their interest. Our proposals for the ascertainment and future elimination of German economic interest would be greatly assisted by this step. Companies with bearer shares outstanding should be required to call them in for cancellation

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and registered shares should be issued in lieu thereof. If all securities are required to be validated as suggested below, this step may not be necessary. However, it would act as a preventative against future hiding of assets.

6. All securities should be called in for reissue or revalidation.

The reissuance or validation of securities would make possible an honest census, would aid in uncovering enemy ownership, tax evaders, etc., and would present not an opportunity to prove up ownership. Arrangements would, of necessity, have to be made to examine securities outside the country. This step should not be confined to securities issued in a particular country. Each country should be requested to examine and certify all securities within its borders and each country should agree to accept the certification of all cooperating countries. Such certification could be shown by the attachment of a foreign IFL. Thus each cooperating government would examine all securities within its borders for its own purposes and guarantee the honest filing of such securities to other cooperating governments. Certified securities bearing a foreign IFL could then be freely imported and exported and dealt with in the United States and any other cooperating country.

The problem of certifying securities held in the United States for foreign accounts is one that could not be met by certification by this Government without examining records abroad. The same problem will also exist for foreign countries but to a smaller degree because, in general, United States citizens did not keep their securities abroad. Consequently, certification of securities held outside cooperating countries will be necessary. A similar procedure is contemplated for liberated countries with respect to other property, monthly deposits, and the inclusion of securities should not be particularly burdensome. While some new work may be involved for this Government, it should be inconsequential by comparison with the present problems and work that would be unnecessary if a proposal along these lines is adopted.

IV. PROPOSED SECURITIES PROGRAM FOR THIS GOVERNMENT

It would appear that until such time as other governments have adopted securities programs to complement ours, we should, in general, maintain the present structure of our public documents and depend on either modifications, new documents,

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or blanket licenses to modify our own controls. It would also appear that we cannot, for practical reasons, look forward to a perfect control due to, if for no other reason, the size of the problem in this country. For example, the uncovering of looted or enemy-owned United States securities could best be accomplished by requiring all United States corporations to call in for release or validation all but certain exempted outstanding issues or securities of stocks and bonds and require proof of ownership before such release or validation. While this method would not be entirely fool proof it would be the nearest approach to perfection. However, in view of the number of United States corporations and the vast number of their outstanding securities any such regulation by Treasury could be reasonably expected to raise a storm of justified protest.

The principal problem from our standpoint is, without losing sight of our objectives, to allow but not lose control over:

1. Dealings in securities by, or on behalf of, blocked nationals.
2. The purchase of securities outside the United States by persons within the United States.
3. Dealings in stamped securities.
4. Dealings in securities registered in the names of blocked nationals.
5. The importation and exportation of securities.
6. The payment of dividends on securities, the encashment of coupons and the redemption of bonds.

1. The purchase, sale and exchange of securities cause few if any problems. General license No. 4 and the blanket licenses authorizing purchases, sales and exchanges cause little, if any, inconvenience to us or the banking institutions operating under their provisions. Changing conditions may raise new problems which are not covered by outstanding licenses but in most instances it is believed that amendments to the outstanding or new blanket licenses can be readily devised that will meet these problems. The proposals of certain foreign governments to take over the United States securities owned by their nationals and the proposed general defreezing licenses, or comparable licenses confined to securities, and side agreements will tend to eliminate, at least to a great extent, these problems.

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By the issuance of blanket licenses to the liberated governments authorizing them to certify securities and transactions under General Ruling No. 17, several problem areas could be eliminated. Such licenses could provide for the segregation of all cash and securities in the omnibus accounts of foreign banks and financial institutions which are not used by nationals of the country licensed. These segregated accounts could be treated as General Ruling No. 6 accounts, although some other designation, such as General Ruling No. 17 accounts, seems desirable, and for practically all purposes immobilized until we were furnished with proof of ownership. To encourage owners to press their claims, consideration should be given to requiring all securities in segregated accounts to be sold. This coupled with an announcement that any cash remaining in such accounts after a specified date would be deemed to be enemy owned and vested probably would produce prompt results. Securities in the certified omnibus accounts could be freely dealt in, income collected, etc., and perhaps, while certified, be treated as generally licensed. The issuance of a general license granting generally licensed national status to practically all individuals in non-blocked countries would also eliminate some problems in this area.

2. The end of the war and return to reasonably normal conditions together with the proposed security controls for other governments should make it possible to lift within a reasonable time the restrictions on the purchase by persons in the United States of securities not physically located within the United States. In the interim it is proposed that General License No. 87 be amended to allow the purchase of certain securities issued by, or in, countries removed from General Ruling No. 11. For example, purchases of securities to which a foreign TFEI has been attached or which are issued after removal from General Ruling No. 11 could be permitted.

3. Dealings in stamped securities within the United States no longer present any material problem as adequate arrangements have been made for the attachment of TFEI-2 which removes the prohibitions against dealings in such securities. General License No. 25 can easily be amended so that securities to which in other countries have attached a foreign TFEI can enjoy the same privileges given by our TFEI-2.

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To date the attachment of TFEL-2 has been restricted to the Federal Reserve Banks. It is understood that many banks and insurance companies still have in their vaults substantial numbers of stamped securities. Consideration should be given to authorizing such institutions to attach TFEL-2's to such securities under appropriate safeguards.

4. We have held that the neutral general licenses are not, for the purposes of General Ruling No. 3 "specific" licenses and it is presumed that we will take the same position regarding the liberated areas defrosting or security licenses. To eliminate the need for the issuance of specific licenses we could

- (i) to the extent liberated governments require the transfer of such securities to them, issue blanket licenses to banking institutions authorizing transfers to such governments on their certification of the absence of an enemy interest, and
- (ii) provide for the attachment, under appropriate circumstances, of Form TFEL-2 to registered securities and amend General Ruling No. 3 accordingly.

5. Our regulations with respect to the exports of securities can be relaxed with the fall of Germany and the adoption of controls by other countries when

- (i) the exportation is ordered by a non-blocked person in any area other than enemy territory on certification by his government or submission of satisfactory proof of ownership. It is believed that domestic banks and reputable banking institutions could be licensed to effect such transactions if they were satisfied as to beneficial ownership.
- (ii) the securities have been certified under a gen license issued to a cooperating government;
- (iii) if stamped, a TFEL has been attached; and
- (iv) new purchases are involved.

Import restrictions could be lifted on securities which have been certified and to which foreign TFEL's have been attached. All import restrictions could be lifted with respect to certified securities.

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6. The payment of coupons and dividends on registered bonds and securities presents no great problem if payments by issuers or agents are made to the accounts in the United States of the registered owner. If the account has been frozen by other action, such payments would be considered free. Payments direct to registered owners in blocked countries could be allowed provided the paying agent or issuer receives a certification from the cooperating government.

The payment of coupons on unregistered bonds could be permitted

(i) in a modified manner comparable to the procedure in effect with the Swedes, or  
(ii) by arranging for all coupons to be sent to this country by accepted banks, or the central banks, in the cooperating countries, under certification. Coupons on bonds held in the United States would be treated as they are at the present time.

#### V. PROGRAM FOR ALL OTHER COUNTRIES

(Neutral, Enemy and those other than Liberated)

Any program adopted by this and the liberated countries would be materially improved by the adoption of complementary programs by the neutrals, the balance of the United Nations and other countries. It is assumed that a security program will be placed in effect in the enemy countries shortly after occupation. Outlines of program for such countries will follow, in most respect those herein proposed for the liberated countries, but have not been prepared pending discussions of this memorandum in the Control.

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DECLASSIFIED  
 Authority NND 968103  
 By Wb/1 NARA Date 1/4/00

MEMORANDUM

Mr. Henry G. Hilken, Chief  
 Intercustodial & Property Branch  
 Max Wilfand, Chief  
 Foreign Funds Section

April 17, 1952

Blocked accounts exceeding \$2,000 in value held in the names of financial institutions located in those Western European countries to be unblocked in the near future.

*Wm*  
 At the meeting held at the Guaranty Trust Company of New York on March 17, 1952 with members of the Sub-Committee on Foreign Funds Control of the Foreign Exchange Committee it was decided that each member of the Sub-Committee would informally report to this Office those blocked accounts exceeding \$2,000 in value held in the names of financial institutions in the ten blocked countries which received aid under the Marshall Plan and Switzerland and Liechtenstein. In addition, the members of the Sub-Committee agreed to advise us as to the number of accounts valued at \$1,000 or less which were blocked as German or Japanese.

I am listing below those accounts which, according to the records of the custodians, would be unblocked if and when the twelve countries involved are made part of the generally licensed trade area. While one bank reported all its blocked accounts, I shall limit this memorandum to those accounts in the names of financial institutions which are valued in excess of \$2,000. In addition, the number of Japanese and German accounts valued at \$1,000 or less will be given for each reporter. Where appropriate, I have noted the extent to which our records differ from those of the banks' and the action to be taken to bring about uniformity in our respective records. The reports should be made available to the Vesting Section for comparison with the satellite reports and for possible vesting action with respect to the enemy accounts.

I. Manufacturers Trust Company, 55 Broad Street, New York, N. Y.

The Manufacturers Trust Company reported that it had no accounts valued at \$2,000 or more in the names of financial institutions in the twelve countries to be unblocked.

It also reported that it had two enemy accounts valued at \$1,000 or less, each of which accounts was blocked as German. The total value of the two accounts was given as \$229.38.

II. Dominick & Dominick, 14 Wall Street, New York, New York

Dominick & Dominick reported accounts in the following names:

1. Du Pasquier Montmollin & Cie., Neuchatel, Switzerland  
 50 shares International Nickel of Canada and a \$1,000 Kreuger Toll 5% bonds, due 1959 represented by certificate of deposit. Our records indicate that the International Nickel stock was claimed to be owned by

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an Antoine Pigeot of French nationality. License application NY 867282 was filed to unblock the stock, but no action has as yet been taken because we have not obtained the necessary proof. The Kreuger Toll certificate of deposit was claimed to be owned by a Mary Wilson whose last residence was in Belgium but whose present whereabouts are unknown. Vesting action was not taken with respect to this property because the owners of the property had been identified. The intended unblocking action will free this property.

2. Credit Commercial de France, Paris, France.

The property reported in this name consists of 185 shares of International Nickel of Canada, valued at \$8,170. The shares were received by Dominick & Dominick from the Bank of Toronto, Montreal, in January 1952. They were blocked by Dominick & Dominick because the transfer agent in the United States advised that the shares were registered in the names of a French national and were therefore blocked on their books. Since the stock certificates came into the United States subsequent to the cut-off date in General License 94, they should not have been blocked and Dominick & Dominick need not have reported them.

3. Union de Banques Suisses, St. Gall, Switzerland.

The property in this name consists of a cash account in the amount of \$6865.50, and is involved in connection with the administration of the assets of the Estate of Paula Mez, deceased. There is some German interest in the estate and the Estates and Trusts Section of the Litigation Branch is handling the matter. The account in question, in addition to being blocked as Swiss, should be regarded as subject to General Ruling No. 11A. Dominick & Dominick should be so advised before unblocking action is taken.

4. Union de Banques Suisses, Zurich, Switzerland.

The property in this name consists of a cash General Ruling No. 6 account in Canadian dollars valued at \$5,120.62. Cover for these Canadian dollars is kept with the Dominick Corporation of Canada, Montreal. These Canadian dollars represent income and principal collected on certain Canadian bonds in 1949 which bonds were once held by Dominick & Dominick in the blocked account of Union de Banques Suisses, Zurich, Switzerland. There is no indication of what disposition was made of the bonds. No vesting action was taken on this account because cover for the property was maintained in Canada. Further, there is some question as to whether it is free under General License 94.

Dominick & Dominick did not advise us as to the number of enemy accounts valued at \$1,000 or less.

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III. Brown Brothers Harriman & Co., 59 Wall Street, New York, N.Y.

1. Banque de Paris & des Pays, Bas, Amsterdam.

The property in this name consists of an ordinary cash blocked account valued at \$5,109.40. No vesting action was taken with respect to this account because, according to the OAP-700 report, the property belonged to an individual of Jewish origin who disappeared during the Nazi occupation. Presumably these are heirless assets.

2. Pierson & Co., Amsterdam, Holland.

The property in this name consists of a sub-account in the name of Otto Dahl &/or Mrs. Stefanie Dahl, non-residents, Netherlands, containing cash valued at \$1,672.66 and securities valued at \$11,604. The OAP-700 report indicates that the identified owners are presumed to have died in 1943 as victims of German persecution. Vesting action was not taken because the property fell into the category of heirless assets.

3. Societe Generale Alsacienne de Banque, Strasbourg, France.

The property consists of a cash account valued at \$1,133.11 and securities valued at \$11,462. The OAP-700 report indicates that the property belongs to one M. Sally Hecht, a Jewish refugee whose whereabouts are unknown and who is presumably dead. For that reason no vesting action was taken.

Brown Brothers Harriman & Co. reported fifteen enemy accounts valued at \$1,000 or less. The total value of these accounts was approximately \$2,000. In addition, they reported an account valued at \$1,075 in the name of German Atlantic Cable Co. & B.B.H. & Co. Special Deposit Account pursuant to Section 7, Article 2 of Indenture dated 4/1/25.

IV. J. P. Morgan & Co., Inc., 23 Wall Street, New York, New York.

J. P. Morgan & Co. advised they held no property in blocked accounts in financial institutions located in the twelve countries except for property in which Iron Curtain nationals had an interest. It did not advise regarding enemy accounts valued at \$1,000 or less.

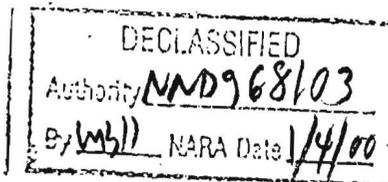
V. Hanover Bank, New York 15, New York.

The Hanover Bank reported no accounts in the names of financial institutions which would be completely unblocked when our contemplated unblocking action was taken.

The Hanover Bank also advised that they had three German accounts valued at \$1,000 or less. The total value of these accounts was approximately \$220.

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VI. Bank of the Manhattan Co., 40 Wall Street, New York, N.Y.

Accounts in the following names were reported:

1. Credit Suisse, Zurich, Switzerland.

General Ruling No. 6 account valued at \$27,892.04. Our files indicate that this account was vested pursuant to Vesting Order 17800. An examination of the Collection & Custody work file indicates that the property has not yet been reduced to possession.

2. Union Bank of Switzerland, Zurich, Switzerland.

The property reported consists of a General Ruling No. 6 account valued at \$9,387.01. Our files indicate that this property belonged to a Rumanian national and for that reason was specifically excluded from Vesting Order 17607. The Bank of the Manhattan Company should be advised to block this account as Rumanian.

3. Banque de Brussels, Brussels, Belgium.

The property reported consists of a regular blocked account valued at \$827 plus property of indeterminable value. According to our files no report on Form OAP-700 was filed with respect to this account, probably because the bank took the position that the property was not valued at \$1,000.

4. Rotterdamsche Bank N.V., Amsterdam, Holland.

The property consists of a regular blocked account valued at \$5,980. Our records indicate that the OAP-700 with respect to this property was sent to the Vesting Section. The property should be blocked as German and the Bank of Manhattan should be so advised.

5. N.V. Vidustrust Maatschappij voor Beheer en Belegging, Amsterdam, Holland.

The property reported consists of a regular blocked account valued at \$16,000. Our records indicate that this property probably consists of 200 shares of Shell Oil Co. stock and cash valued at \$1,881.62. The foregoing stock and cash were specifically excluded from Vesting Order 18688 because we had been advised that the property belonged to an Hungarian living in Rumania. The Bank of the Manhattan Company should be advised to block the property as Rumanian.

The Bank of the Manhattan Company advised that it had seven enemy accounts valued at \$1,000 or less, the aggregate value of which accounts amounted to \$3,000.

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VII. The National City Bank of New York, New York 15, New York.

This Bank reported that it had no accounts in the names of financial institutions located in the twelve countries which would be affected by the unblocking of these countries. They also reported that they held about thirty cash and securities enemy accounts valued at \$1,000 or less, the total value of which accounts is less than \$6,000.

VIII. Guaranty Trust Company of New York, 140 Broadway, New York, N.Y.

1. Banque Commerciale S. A., Luxembourg, Luxembourg.

The property consists of three accounts:

- a. a regular blocked cash account in the amount of \$40,773.68,
- b. a blocked General Ruling No. 6 cash account valued at \$13,875.62, and
- c. a General Ruling No. 6 cash account with the additional identification of "New A/C".

A portion of these accounts was vested by the Vesting Section and I am preparing a vesting order to vest the balance. The reports were recently returned to the Foreign Funds Section by the Vesting Section.

2. De Nederlandsche Bank N.V., Income Tax Refund Account, Amsterdam, Holland.

The property consists of a regular blocked cash account valued at \$2,237.90. According to our records a report on OAP-700 was not filed with respect to this property, possibly because the refund was not paid until after the reporting date. In addition it is noted that the account is in the name of the official certifying agency of the Netherlands Government. Under these circumstances I do not think the matter should be pursued any further.

3. N.V. Escompto En Handelsbank, Amsterdam, Holland.

The property reported consists of a regular blocked cash account valued at over \$12,000. Our records indicate that this account was unblocked by license No. NY 867633, dated March 13, 1952.

4. Havero Handelsvereniging Overzee N.V., Rotterdam, Holland.

The property reported consists of a regular blocked cash account valued at \$7,890.15. The OAP-700 reported that \$2500 of this account belongs to a Rumanian national. The balance was reported as owned by individuals whose identity was revealed and who appeared to be non-enemies. For that reason no vesting action was taken. The Guaranty Trust Company should, however, be advised that the account should be blocked as Rumanian so that the unblocking of the twelve countries would not free the account.

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10. Brenca N.V., Amsterdam, Holland.

The property reported consists of securities in a regular blocked account. The securities are German dollar bonds whose face value is \$2610. No vesting action was taken on the property because Mr. Payne advised that the bonds were worth approximately 2% on their face value.

11. Credit Suisse, Zurich, Switzerland.

The property reported consists of a General Ruling No. 17 securities account valued at \$2,000. Our records indicate that this property was specifically excluded from Vesting Order 17977 because it was owned by a Hungarian. The Guaranty Trust should be so advised.

12. Themis Financial Co., Zug, Switzerland.

The property reported consists of securities subject to General Ruling No. 17 valued at about \$17,500 plus some German dollar bonds of indeterminate value. While the report indicates that there was only a Swiss block on the account, it is noted that the Guaranty Trust Company also reported a General Ruling No. 6 cash account in the name of the same national and a regular blocked cash account, both of which are blocked under General Ruling No. 11A. Under these circumstances I think that the Guaranty Trust should be advised to block the securities account under General Ruling No. 11A.

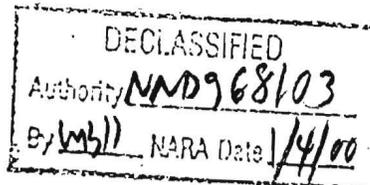
13. Union Bank of Switzerland, Lausanne, Switzerland. Special A/C No. 1.

The property reported consists of a regular blocked cash account valued at slightly over \$1,000. Our files indicate that the Guaranty Trust is checking its records to ascertain whether the property has been unblocked under license No. NY 866895. If it has not been so unblocked, it has been vested under Vesting Order 17631.

The Guaranty Trust Company has listed every German and Japanese account regardless of its value. I have not counted the number of these accounts or their value. This report as well as reports of the other banks will be forwarded to the Vesting Section for appropriate action.

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IX. Bankers Trust Company, 16 Wall Street, New York, New York.

Bankers Trust Company reported accounts in the following names:

1. Martins Bank Ltd., London, England, for L. Van Den Eynde of Brussels, Belgium

The property consists of a cash balance amounting to \$10,365.62. This account was formally held in the Commercial Bank and Trust Company which was recently taken over by the Bankers Trust Company of New York. While we have no record of the receipt of an OAP-700 report with respect to this account; Mr. Farrell of the Bankers Trust Company advised me by phone that the records of the Commercial National Bank and Trust Company indicate that an OAP-700, dated October 31, 1950, was sent to this Office. Our records do show that license NY 865902, dated September 5, 1950, was issued to Lucien Van den Eynde with an address in Paris, France unblocking \$10,263.48 which represented the balance in an account held by the Irving Trust Company. The license was issued on the basis of an application which showed that Mr. Van den Eynde was a Belgium citizen and was accompanied by a statement of beneficial ownership and non-enemy interest issued by the Office des Changes. A check of the TFR-600 reports does not indicate that the Irving Trust Company held such an account though there is a TFR-600 filed by the Commercial National Bank and Trust Company showing an account valued at \$10,365.62. It may be that the application erroneously stated that the account was held at the Irving Trust Company. At any rate, even if the account at the Bankers Trust Company is still blocked, we would not have vested it pursuant to the Snyder-Vandenberg Program because the beneficial owner was identified and the information in our files indicated that he was eligible for unblocking. Accordingly, there would appear to be no objection to the unblocking of this account through the issuance of the proposed amendment to General License 53.

2. Schuhmann & Cie., Lyon, France.

The property consists of a cash account valued at approximately \$7,000. Our records indicate that the French Government advised us that residents of Rumania owned this account. Before the proposed amendment to General License 53 is issued Bankers Trust Company should be advised to block the property because of the Rumanian interest in the account.

Bankers Trust Company reported no German and Japanese accounts valued at \$1,000 or less.

I. Irving Trust Company, One Wall Street, New York, New York.

The Irving Trust Company advised by letter dated April 8, 1952 the number of accounts on its books blocked as "dual nationals". The one

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account reported exceeding \$2,000 in value was a General Ruling No. 17 account valued at about \$4,100. Our records indicate that a 1/4 interest in this account was vested by Vesting Order 15904. An application is pending to unblock the remaining 1/4 interest.

I called Mr. Timoney in regard to the Irving Trust Company report and suggested to him that the Irving Trust Company had perhaps misunderstood the understanding reached at the meeting on March 17, 1952 since its letter referred to accounts blocked as "dual nationals". I further told Mr. Timoney that the Irving Trust Company had not advised us of the number of German and Japanese accounts valued at \$1,000 or less. Mr. Timoney told me that he would call Mr. Messener of the Irving Trust Company to clarify the nature of the report that this Office wished to receive. As yet nothing further has been received from the Irving Trust Company.

XI. Chase National Bank of the City of New York, 18 Pine Street, N. Y.

Chase National Bank reported accounts in the following names:

1. Banco de la Nacion Argentina, Blocked Switzerland, a/c Contesse de Contades Andre, Hec Andre Thome Marguarite, Geneva, Buenos Aires, Argentina.

The property reported consists of a deposit account valued at approximately \$32,000. When we examined the OAP-700 reports relating to Switzerland, it was decided that no vesting action would be taken with respect to the account since the beneficial owner had been identified and was a non-enemy.

2. Pancada Moraes & Co., Banqueiros, Lisbon, Portugal.

The property reported consists of a custody account valued at about \$3600 which is blocked. No vesting action was taken because the OAP-700 report shows that the property was identified as owned by a Frenchman. A copy of the OAP-700 report was sent to the French Government.

3. Credit Lyonnais S.A., Paris, France.

The property in this account consists of securities valued at \$4450. The OAP-700 report indicates that the property is owned by the French Government and for that reason no vesting action was taken.

4. Netherlands Trading Society East, Inc., Dover, Delaware, Head Office Account, Rotterdam Dutch Residents Account, Nederlandsche Handelsmaatschappij N.V. Rotterdam, Netherlands.

The property reported consists of a custody account valued at over \$21,000. Our files show that the property is claimed to be owned by Wodan Handel-

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maatschappij N.V., a case which is still pending in the Vesting Section. Before any action is taken to unblock the Netherlands, the Chase National Bank should be directed to block this account under General Ruling No. 11A.

5. Union Bank of Switzerland, Zurich, Switzerland.

The property reported consists of a General Ruling 17 securities account valued at approximately \$2700. A check of our records indicates that this property probably represents the Hungarian interest in the estate of Irene Spits-Szentaklassy. Before unblocking Switzerland the Chase National Bank should be advised that this account should be blocked as Hungarian.

6. The last account reported is a Corporate Trust Account consisting of "Qualified" Participation Certificates Series B of the E & F assets Realization Corporation and has a face value of over \$30,000. The certificates are registered in the name of Gebruder Arnhold. I have been advised that Gebruder Arnhold is an old German private banking house owned by persecutees who are now in the United States. The certificates represent participation in certain unliquidated assets in the corporation consisting of the unpaid balance of certain Mixed Claims Commission Awards of unknown value. The Chase National Bank has blocked this account because they have been advised by the New York Trust Company, agent of the corporation in liquidation, that Gebruder Arnhold is a blocked national. No vesting action was taken with respect to this account because the registered owners of the certificates were persecutees and because of the indeterminable nature of the property reported.

The Chase National Bank also reported that it held 96 German and Japanese accounts, valued at \$1,000 or less, totalling \$13,387.85. In addition, it had one custody account blocked as German which contained securities estimated to be valued at less than \$1,000.

M. W.

Attachments

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MAY 11 1948

Dear Mr. Valensi:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your Government that, pursuant to the letter of February 7, 1946 to the Secretary of the Treasury from Mr. Andre Philip, Ministre de l'Economie Nationale et des Finances, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned letter.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz  
 Acting Director

Mr. Christian Valensi,  
 Financial Counselor,  
 Embassy of France,  
 1822 Massachusetts Avenue, N.W.,  
 Washington, D. C.

TPNelson:ebb 5/7/48

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MAY

*M Arnold*

HAGGERTY, MYLES & WORMSER  
 LAWYERS

RENÉ A. WORMSER  
 BEVERLY R. MYLES  
 LOUIS C. HAGGERTY  
 MICHAEL J. KIELY, JR.  
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LINCOLN BUILDING  
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CABLE ADDRESS RESMAY NEW YORK  
 TELEPHONE MURRAY HILL 2-0128

April 26th, 1948

General Counsel's Office  
 Department of Treasury  
 Washington, D. C.

Gentlemen:

We are concerned over the possible interpretation by your Department of the letter dated February 2nd, 1948 from the Secretary of the Treasury to Senator Arthur H. Vandenberg, Chairman of the Senate Foreign Affairs Committee.

In this letter the Secretary of Treasury states that it will be the policy of this country under the Emergency Relief Program to disclose to foreign countries the unblocked assets of "their citizens" in the United States.

Many American citizens, presently residing abroad, (and who by virtue of their residence or other factors are also considered to be citizens of the country of their residence) are justly disturbed as to the possible scope of disclosure.

Assume the following situation: A citizen of the United States by virtue of birth, marries a Frenchman, and takes up residence in France. She has certain undeclared assets in the United States in which no foreign national other than herself has an interest. These assets by virtue of Executive Order 8389 remain blocked. No declaration of these

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*Mr Arnold*

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assets were made to the French Government for several compelling reasons: to prevent the confiscatory taxation by a foreign power of property in the United States belonging to an American citizen, and to further prevent such property from falling under the control of a Government which, at the time, was likely to be dominated by the Communist party.

The French Government, of course, deems such person to be a citizen of France, in spite of her birth in the United States, and she is subject, therefore, to such penalties as may be applicable for failure to make declaration.

There are many variables to this situation which, in its essential form, applies to a great many of American citizens residing abroad. We trust that it will not be the policy of this Government to make a blanket report of all unblocked assets in the United States regardless whether such assets are owned by United States citizens or otherwise. To fail to make such a differentiation will mean (1) that the United States Government will be collaborating with a foreign power in the confiscation and seizure of the United States assets of an American citizen; (2) it will mean that the United States Government will be placing in jeopardy the person and property of United States citizens; and, (3) it will mean that the United States Government will disavow its policy

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of non-recognition of dual nationality to the extent of recognizing "foreign citizenship" of certain American citizens residing abroad.

Since we believe this matter to be of immense concern to a great number of American citizens residing abroad, may we respectfully request your interpretation as to whether it will be the policy of this Government under the Emergency Relief Program to disclose the blocked United States assets of American citizens, who are also deemed to be citizens of blocked countries.

Very truly yours,

*Wenau J. Alexander*

VJA:dm

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MAY 23 1947

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Dear Mr. Shami:

With reference to my letter to you of April 4, 1947 concerning the disposition of uncertified assets, we have considered the adoption of measures which will greatly simplify any future vesting or census program and which will apply not only to General License No. 95 countries but also to those remaining countries for which unblocking techniques are yet to be formulated and to certain persons in enemy countries. It is our belief that the certification procedure could be expedited and our future programs for the unblocking of the remaining countries considerably simplified if certain categories of assets in which there is no likelihood of any substantial enemy interest were completely unblocked.

Accordingly, there is enclosed for your consideration a draft of a letter to all countries specified in General License No. 95 outlining a proposed general license which will unblock (i) accounts under \$10,000, (ii) interests in estates and trusts created by non-blocked persons in the United States or in the generally licensed trade area, and (iii) property paid or distributed from any trust or estate pursuant to Treasury license. There would be ~~excepted~~ <sup>exempted</sup> from this license those accounts ~~and those estates and trusts~~ in which the following categories of persons have an interest and any interests of such persons in estates and trusts:

- (a) Any German or Japanese person subject to General Ruling No. 11A;
- (b) Any individual who is a citizen of Bulgaria, Hungary, or Rumania residing in one of these countries or in Germany or Japan; and
- (c) Any corporation, partnership or other organization organized under the laws of, or having its principal place of business in, Bulgaria, Hungary or Rumania.

In view of the prospective inclusion of Italy in General License No. 95, accounts and interests of Italian persons will not be excluded from this license.

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On the basis of an analysis of the TFR-300 reports, we believe that there is little to justify, in terms of enemy assets which would be unclocked and vested, the administrative burden on this Government in continuing to exercise controls with respect to the accounts under \$10,000. For the 26 countries involved, there were a total of 60,975 private persons owning assets in the United States valued at \$3,246,300,000 of which 40,603 or 66% of such persons owned assets of less than \$10,000 with an aggregate value of \$147,400,000 or less than 4.5% of the total.

The unblocking of interests in estates and trusts will undoubtedly involve more substantial amounts. The unlikelihood of these being any of enemy interests, <sup>in such cases</sup> nevertheless, is a compelling reason for including these assets in the proposed license.

Concurrently with the actions explained above and in the draft letter, it would seem appropriate to dispose by the same means of certain known enemy assets whose continued blocking creates for this Department administrative difficulties out of all proportion to their volume and the vesting of which will create a similar situation for the Justice Department. Accordingly, we propose to include in the general license a provision under which amounts of \$1,000 or less due to enemy nationals under estates ~~or trusts~~ may be disposed of without regard to the freezing regulations.

An expression of the views of your Department concerning these proposals will be appreciated. A similar letter is being sent to the Department of State.

Sincerely yours,

JOHN S. RICHARDS

John S. Richards  
Director

*Let. conf. 5/26/47  
19/ Richards  
" Tucker*

Mr. Donald Shan, Secretary,  
Office of Alien Property,  
Department of Justice.

Enclosure.

Mailed from this office  
5/23/47 - ltm

*The legal division disagrees with the policy expressed in this letter as to estates and trusts but concurs with the form of the letter*

*Williams*  
IRWilliams:EGlaser:MSchwartz:ems 5/19/47

*Richards*  
*MO*

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D R A F T

**Letter to General License No. 95 countries**

This Department is seriously concerned with the substantial number of blocked accounts still to be certified under the procedure of General License No. 95. It is apparent, of course, that the certification procedure cannot be indefinitely prolonged. We feel that it is therefore necessary to take some action which will simplify and expedite the operation of the procedure without prejudice to its basic purpose, i.e., the discovery of assets in which an enemy has an interest.

Accordingly, we intend to issue in the near future a general license which will have the effect of unblocking without certification all accounts under \$10,000 except those in which there is reason to believe that an enemy has an interest. By this removal of the blocking controls over a relatively large number of accounts which constitute an insignificant proportion of the total blocked assets, the governments of the countries included in General License No. 95 will be able to place full emphasis on the more important problem of investigating the larger accounts. It is realized of course that some minor enemy assets in the United States may escape detection. It is our belief, however, in which other interested agencies concur, that any such loss will be outweighed by the benefits which will accrue to this Government and to the governments of the General License No. 95 countries from the concentration of effort which will be placed on the more important accounts.

At the same time, there will be unblocked under the general license interests of non-enemies in estates and trusts created by non-blocked persons in the United States or in the generally licensed trade area as defined in General License No. 53, as amended on January 1, 1947, and property paid or distributed to non-enemies from any trust or estate pursuant to Treasury license. The unlikelihood of their being any enemy interest in such cases

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is apparent. Removal of these assets from the operation of the certification procedure will further permit the placing of greater emphasis on the investigation of those assets in which enemy interests may exist.

Our recent action whereby direct certifications may be issued with respect to assets held by a resident of one General License No. 95 country through a depository in another General License No. 95 country was likewise taken with the same aim of facilitating operations under the defrosting program.

These measures will not only accomplish the stated objective of expediting the discovery of enemy assets but will also substantially reduce the problem with respect to the ultimate disposition of the uncertified residuum. We expect to inform your Government in the near future concerning our plans for resolving this problem.

310622