

RG 131  
Entry PP 1  
File Germany - American  
Plans  
Box 174

C O P Y

DEPARTMENT OF STATE  
Washington

April 30, 1941

CONFIDENTIAL

My dear Mr. Secretary:

As you no doubt know, the Department is busily engaged, along with the buying agencies of this Government, in acquiring to the utmost possible extent strategic and critical raw materials produced in the American republics. In this connection a telegraphic report was received from our embassy at Rio de Janeiro which brings out the fact that various products on our strategic and critical raw materials list are being exported to Germany and Japan from Brazil, use being made of our commercial banking facilities. I enclose a paraphrase of the cable.

It is my judgment that we should endeavor to bring to an end this financial output on the part of the American banks. It occurs to me that the simplest way might be if the Treasury or the Federal Reserve Bank of New York would informally discuss the matter with the banks engaging in this business and seek to secure agreement that it would be foregone. If the Treasury is willing to arrange such a meeting, I should be very glad to see that a representative of the State Department is present to help in presentation of the matter. You might also wish to have present a representative selected by the Federal Loan Administrator.

320867

RG 131  
Entry PP C  
File Colony - Weizmann  
Box 174

-2-

I should appreciate your assistance in this matter.

Sincerely yours,

For the Secretary of State:

(Signed) Sumner Welles

Under Secretary.

The Honorable

Henry Morgenthau, Jr.,

Secretary of the Treasury.

Enclosure:

No. 349 of April 23  
from Rio de Janeiro

Cmpy:lg 7/11/41

320368

RG  
Entry 131  
File PP C  
Box Germany - movement of materials  
174

## C O P Y

## PARAPHRASE OF TELEGRAM RECEIVED

FROM: American Embassy, Rio de Janeiro, Brazil

DATE: April 23, 1941, 7 p. m.

NO.: 349

Industrial diamonds and other strategic materials, as previously reported by the Embassy, are being exported to Germany and Japan from Brazil, using United States commercial banking facilities. Certain strategic materials are being exported from the United States only under license, at the same time, and the shipment of such materials from Brazil and other non-American destinations on credits extended by American banks is partially defeating the general objectives of the export control of the United States.

I wonder whether the Department would have any suggestions as to possibility of persuading U.S. banks not to open foreign commercial credits for strategic materials unless the credits are documentary and concern only shipments to countries in the Western Hemisphere, or unless some other destination has been officially approved.

Just this measure in itself I realize might not be sufficient to bring about a substantial lessening of the movement to non-American countries of strategic materials. However, American banks would at least be prevented from facilitating such movement of materials, and other efforts of the United States in that direction might be strengthened.

CAFFERY.

EA:LWW

Copy:lg 7/11/41

*Chaffey*

320869

RG 131  
Entry FP C  
File Germany - Neutrality  
Box 174

(C O P Y )

TREASURY DEPARTMENT  
INTER OFFICE COMMUNICATION

STRICTLY CONFIDENTIAL

March 5, 1941.

TO: Secretary Morgenthau  
FROM: Mr. Wiley

Last October this office brought to FBI's attention the fact that the German government was raising dollars in the United States through Kueckwanderer mark sales in apparent violation of the Johnson and Neutrality Acts. The FBI undertook a very thorough investigation throughout the United States and, as I am informed, submitted a recommendation to the Attorney General (or the Assistant Attorney General in charge of the Criminal Division) for grand jury action. Although months have passed and the Treasury has on several occasions formally and informally expressed its view to the Department of Justice that a violation of the purpose and language of the statutes mentioned is involved, there seems to be complete inertia on the part of the Department of Justice. Between \$10,000,000 and \$12,000,000 have already been traced by FBI from Germans in this country to the German government's accounts (in addition to \$8,000,000 from the food package business). It seems to me little short of shocking that nothing is being done by Justice. If you care to handle the matter in this way, I have prepared for your signature the enclosed proposed personal letter from you to the Attorney General with a view to activating the Department of Justice.

Enc.

(Initialed) J.C.W.

320870

RG 131  
Entry FPC  
File *Gaston - memorandum*  
Box 174

(C O P Y )

March 5, 1941.

MR. GASTON:

I am prepared to subscribe to Mr. Foley's revised version of the proposed letter to the Attorney General. What do you think?

J.C.W.

320371

RG	131
Entry	PP 0
File	<i>Germany - American Banks</i>
Box	174

Banks

C O P Y

MAY 16 1941

Dear Mr. Aldrich:

I have your letter of May 12, 1941, enclosing a memorandum outlining the nature and scope of certain transactions which your bank is carrying on with German, Italian, and Japanese banks and firms, and advising me that you would be glad to be guided by the wishes of the Treasury either now or at any time in the future, if in my opinion it should be inadvisable for your bank to continue to furnish any of these facilities.

I appreciate very much your bringing this matter to my attention. I have it under study and will be glad to advise you in case we want to take advantage of your kind offer.

Sincerely yours,

(Signed) M. Morgenthau, Jr.

Secretary of the Treasury

Mr. Winthrop W. Aldrich,  
Chairman,  
Board of Directors,  
The Chase National Bank,  
New York City.

*File with D.L.B.*

Enclosure.

Chairman Board of Directors.

320872

RG 131  
Entry FP C  
File Germany - American  
Mails  
Box 174

April 5, 1941

BIN.13299

It is understood from a delicate source that Chase National Bank, New York, wrote on March 4, 1941 to Miss Beatrice Schwartz, Chase National Bank, Berlin.

Cover encloses a list of Rückwandermark transfers from U.S.A. to Germany which may be of interest. The period covered is not indicated but the amounts shown total roughly \$220,000 and is remitted for account of 110 remitters in U.S.A. for investment in Germany.

**CONFIDENTIAL**

2751

320873

RG 131  
Entry FP C  
File Germany - American  
Box 174

March 28, 1941.

Mr. Johnston

Mr. Bernstein

You might examine the annexed just to familiarize yourself  
with the problem and then return the files to Klaus.

BB:mcu  
3/28/41

320874

RG 131  
Entry PP C  
File Germany - REVENGE PLATES  
Box 174

(C O P Y )

TREASURY DEPARTMENT  
INTER OFFICE COMMUNICATION

STRICTLY CONFIDENTIAL

DATE: March 27, 1941.

TO: Mr. Bernstein  
FROM: Mr. Klaus

For your information and return.

(Initialed) S.K.

Encls. HRueck-3-13  
with 13 file folders.

320375

RG 131  
Entry PP C  
File Germany - Rueckwanderer  
Box 174

(C O P Y )

FEDERAL BUREAU OF INVESTIGATION  
UNITED STATES DEPARTMENT OF JUSTICE  
WASHINGTON, D. C.

March 13, 1941

BY SPECIAL  
MESSENGERPERSONAL AND  
CONFIDENTIALThe Honorable  
The Secretary of the Treasury  
Washington, D. C.

Attention: Mr. J. C. Wiley

My dear Mr. Secretary:

For your further information in connection with Rueckwanderer Mark transactions in the United States, there is being transmitted to you herewith a memorandum dated March 1, 1941, containing additional information. There are also being transmitted thirteen folders containing photostatic copies of forms and correspondence pertaining to thirteen separate Rueckwanderer Mark transactions.

Sincerely,

(Sgd.) J. E. Hoover

Enclosures.

320876

RG 131  
Entry PP C  
File GARRY - RUECKWANDER  
Box 174

March 1, 1941

MEMORANDUM

During the course of the investigation being conducted in New York City in connection with the sale of Rueckwanderer Marks throughout the United States, complete sets of forms and correspondence pertaining to thirteen separate transactions were obtained at the Chase National Bank, 18 Pine Street, New York. These particular transactions were handled by the following agencies:

1. American Express Company  
65 Broadway, New York, New York
2. Amerop Travel Service  
400 Madison Avenue, New York, New York
3. Chase National Bank  
18 Pine Street, New York, New York
4. Ernst Esch Company  
32 Broadway, New York, New York
5. Express Exchange  
201 East 86th Street, New York, New York
6. Fortra, Incorporated  
61 Broadway, New York, New York
7. Hamburg American Line-North German Lloyd  
1205 Washington Boulevard, Detroit, Michigan
8. Hautz and Company  
50 Broad Street, New York, New York
9. New York Overseas Corporation  
29 Broadway, New York, New York
10. George Reinicke  
704 South Spring Street, Los Angeles, California
11. Schoellkopf, Hutton and Pomeroy, Incorporated  
Seventy Niagara Street, Buffalo, New York

320877

RG 131  
 Entry PP C  
 File Germany - AUSTRIA - SWITZERLAND - MEXICO  
 Box 174

12. Strasser Travel Bureau  
 302-1331 Third Avenue Building, Seattle, Washington

13. Hans Utsch and Company  
 29 Broadway, New York, New York

You will note that certain of the forms and correspondence were in the German language.

Special Agents of the Federal Bureau of Investigation, while engaged in the monitoring of various accounts at the Bank of the Manhattan Company, 40 Wall Street, New York, New York, discovered large deposits made daily in the account of the Deutsche Golddiskontbank by Robert C. Mayer and Company, brokers and investment security dealers, 50 Broadway, New York City, Deutscher Handels und Wirtschaftsdienst, security dealers, 17 Battery Place, New York City, and Hans Utsch and Company, security dealers, 29 Broadway, New York City. Further investigation disclosed that these deposits covered Rueckwanderer Mark transactions. Examination of the account of the Deutsche Golddiskontbank at the Bank of the Manhattan Company disclosed that the monthly volume of the deposits in this account covering Rueckwanderer Mark transactions during the period from July 1, 1940, to January 31, 1941, inclusive, is as follows:

July, 1940	\$ 259,386.46
August, 1940	314,787.65
September, 1940	283,577.99
October, 1940	457,052.91
November, 1940	305,059.15
December, 1940	167,824.10
January, 1941	<u>400,567.40</u>
TOTAL	\$2,188,255.66

The foregoing figures indicate that the volume of Rueckwanderer Mark transactions at the Bank of the Manhattan Company is equal to, if not greater than, the transactions handled by the Chase National Bank of New York City, during the above-mentioned months. The transactions handled by the Chase National Bank are set forth in the report of Special Agent C. A. Herring, dated at New York, New York, January 4, 1941, entitled "German Funds - Miscellaneous Information Concerning."

This report reflects that between September 1, 1936, and November 30, 1940, the Chase National Bank of New York City handled Rueckwanderer Marks in the amount of \$5,581,997.07.

RG 131  
Entry PP C  
File Germany - Rueckwanderer  
Box 174

Intensive investigation is now in progress at the Bank of the Manhattan Company in New York City to determine the total amount of Rueckwanderer Mark transactions handled by that bank.

RG 131  
Entry PP 9  
File GERMANY - RUECKWANDERER PLANS  
Box 174

TREASURY DEPARTMENT  
INTER OFFICE COMMUNICATION

APR 1 RECD

DATE

to Mr. Bernstein  
FROM Mr. Quint

March 31, 1942

RUECKWANDERER INVESTIGATION

After reviewing the memorandum dated March 13 of Frederick Harig of Justice and the exhibits referred to therein, my reaction is that Treasury should take the position that it does not object to the indictment. You will recall that at the meeting in your office on March 18 it was generally agreed that unless the case is weak, the Treasury should not object. The case is not actually weak but for the reasons suggested below I do not think we can be too enthusiastic about it.

The record submitted indicates that Justice should certainly be able to convince a jury that Chase engaged in the Rueckwanderer business as agent of the German Ministry of Economy. The proof is present in clear documentary form. It also appears that both Justice and the Treasury Department agree that the Rueckwanderer business constitutes a violation of the Johnson and Neutrality Acts.

Nevertheless, granting the presence of these factors, it seems to me that the likelihood of a conviction of the Chase employees is not too good. That is my reaction and I believe I can show a sound basis for it if you want me to.

The main impression from the exhibits is that these employees did their utmost to raise foreign exchange for Germany -- but their inspiration was dollars, not pro-Nazi sentiment. To be sure, there are several documents

320880

RG 131  
 Entry PP C  
 File Germany - American Nazis  
 Box 174

- 2 -

among the exhibits from which it appears that they had the welfare of Germany at heart. But it nevertheless is true that the record is quite barren of reference to Nazi activity in the U.S.

The exhibits bear out Sam Klaus' suggestion made at the meeting in your office that the case will probably be confined to the minor officials in the Chase Bank who ran the Rueckwanderer business. They appear to be Kuhlman, Barth, Drath, Schwartz and possibly Rovensky. No directors or other officers are involved. As Sam Klaus points out, this is a strong factor in favor of the case.

Exhibits 12 and 12A raise some question. They are letters from the Federal Reserve Bank to Chase giving it permission to engage in certain mark business. The letters from Chase to the Federal requesting the permission are not given so that it is impossible to see what Chase told the Federal. If the Federal had knowledge of the details of the business before granting the permission, a conviction will be virtually impossible -- but this seems unlikely. It seems to me that copies of the letters from Chase to the Federal should be obtained either by Justice or by ourselves before our final position is stated.

NOTE: You can limit your reading of the exhibits to Nos. 12, 12A, 13, 16, 19, 21, 21A and 30.

*Maurice Quirk*

CC to Messrs. Klaus, Aarons and Sherbondy.

Federal  
 (Arch.) Mr. ) rebibus  
 (Recd.) ✓ West  
 (Enclosure) ✓ Wingfield

320381

RG 131  
 Entry PP C  
 File GERMANY - RUECKWANDERER  
 Box 174

ADDRESS REPLY TO  
 "THE ATTORNEY GENERAL"  
 AND REFER TO  
 INITIALS AND NUMBER.

WB:FJR:AM

COPY

DEPARTMENT OF JUSTICE  
 WASHINGTON, D. C.

235-536-5

March 24, 1942

Honorable Bernard Bernstein  
 Assistant General Counsel  
 Treasury Department  
 Washington, D. C.

Re: Investigation of Rueckwanderer Agencies

Sir:

Reference is made to my letter of March 16, 1942, transmitting a memorandum on the above subject together with a set of exhibits. The Department is interested in extending its investigation to include some of the sub-agents whose records have not as yet been subpoenaed by the New York Grand Jury investigating the Rueckwanderer program.

In this connection your attention is called to Exhibit #22. Exhibit #22 is a list of some 71 agents of the Chase National Bank. We are advised that your Department has frozen the accounts of some of these agencies and has taken possession of the records of many of them. Our investigation of the agencies which engaged in the Rueckwanderer business would be considerably facilitated if you would advise us as quickly as possible of the names of the agencies appearing in Exhibit #22 whose records you have impounded. We would also appreciate being advised whether you have in your custody the records of any of the following agencies:

1. The Chicago branch of Hautz & Company which was under the control of a Mr. Fred Heineken.
2. The Weisflog Travel Agency in Milwaukee, Wisconsin, or any travel agency or exchange brokerage with which a Mr. Berthold Erich Weisflog is in any way connected.
3. The German-American Travel Center of Chicago, Illinois, which is a partnership composed of George Froboese and Otto A. Willumeit, or any organization in which either of these individuals may have any interest or with which they may be in any way associated.

320882

RG 131  
Entry PP C  
File Germany - American  
Plans  
Box 174

- 2 -

4. Val J. Peters' Travel Agency of Omaha, Nebraska.

It would be appreciated if you would indicate in each instance the general nature of the records seized. If there is available to you any information indicating that any of these agencies or any of the persons connected with them are engaged in or have intentionally engaged in activity detrimental to the United States, we would appreciate being advised of the nature of this information.

Respectfully,

For the Attorney General

/s/ Wendell Berge

WENDELL BERGE  
Assistant Attorney General

320833

RG 131  
 Entry FP C  
 File Germany - NEUTRALIZATION  
BLOCKS  
 Box 174

C  
O  
P  
Y  
Y

C O P Y

February 17, 1939

Mr. W. C. Kunz, Assistant Cashier,  
 The Chase Bank,  
 New York, New York.

Dear Sir:

This refers to your letter of February 10, 1939, stating that, in connection with the issue and sale of travelers' checks under the authority contained in the Board's letter of September 23, 1938, your bank finds it desirable also to issue and sell letters of credit payable solely in blocked currencies of foreign countries.

It is understood that the issue and sale of letters of credit payable in blocked currencies of foreign countries will be handled in a manner similar to the issue and sale of travelers' checks by your bank in accordance with the Board's letter of September 23, 1938. It is also understood that the issue and sale of letters of credit by your bank in the United States will be incidental to, or for the purpose of, carrying out transactions in foreign countries or dependencies of the United States where The Chase Bank has established agencies, branches, or correspondents.

On this basis, you are advised that the Board of Governors approves the request contained in your letter to issue and sell letters of credit.

Very truly yours,

(Signed) L. P. BETHEA

L. P. Bethea,  
 Assistant Secretary.

320884

RG 131  
Entry FPC  
File Germany - Italian Assets  
Box 174

C O P Y

DEPARTMENT OF STATE  
Washington

July 3, 1941

My dear Mr. Secretary:

I refer to your letter of May 16 and Mr. Winthrop W. Aldrich's of May 12 concerning transactions of the Chase National Bank with German, Italian and Japanese firms.

This Department appreciates Mr. Aldrich's concern that that the policies of the Chase National Bank, in its relations with foreign countries, be in harmony with the policies of this Government. However, the issuance of the executive order of June 14 establishing control over German and Italian assets in this country makes a specific reply to his inquiries in this letter no longer necessary or pertinent, and the Department does not desire to comment with reference to the Japanese transactions.

Sincerely yours,

(Signed) Sumner Welles

Acting Secretary.

The Honorable  
Henry Morgenthau, Jr.  
Secretary of the Treasury.

Oris Smith  
Chatfield

320885

RG 131  
 Entry FP.C  
 File Germany - MECHANICAL  
 Box 174

C O P Y

THE CHASE NATIONAL BANK  
 of the City of New York  
 NEW YORK

May 12, 1941

The Honorable Henry Morgenthau, Jr.,  
 Secretary of the Treasury,  
 Washington, D. C.

Dear Mr. Secretary:

Those of us who are responsible for conducting the policy of this Bank recognize that during the present period of international tension it is extremely important that American banks should co-operate in every possible way with the Administration.

On the other hand, it is difficult, in the absence of action by the United States Government to control assets owned by German, Italian and Japanese nationals, for us to refuse to continue to handle for the benefit of our American customers and depositors such ordinary business as they may have in Central Europe, Italy and Japan, or to refuse to continue our correspondent relations with German, Italian and Japanese banks and firms.

The nature and scope of the transactions which I have in mind are outlined in the enclosed memorandum. I have no reason to suppose that any of these transactions is in any way contrary to the policy which the Administration would wish to have us follow, but with the thought in mind that it might not have occurred to you that some of these transactions were being carried on, I have felt it desirable to call them to your attention.

I am sure that it is not necessary for me to tell you that if, in your opinion, it should be inadvisable for us to continue to furnish any of these facilities, we will be glad to be guided by your wishes either now or at any time in the future.

Very sincerely yours,

/s/ Winthrop W. Aldrich

Chairman Board of Directors.

Enclosure.

RG 131  
 Entry TP C  
 File Germany - WEARWICHEN  
 Box 174

C O P Y

May 12, 1941

I - GERMANY

- A) - We continue to carry current accounts in the names of German banks and firms and effect payments and collections on their behalf, including all the routine banking transactions involved in an ordinary correspondent relationship.
- B) - Ever since the German crisis of 1931, we have been actively engaged in the liquidation of credits extended by this and other American banks in Germany. Under the Standstill Agreements concluded with the German banks, the American banks had the right to acquire debtors to settle their debts in German Marks. These Marks were and are still being sold to buyers in the United States and elsewhere and are generally used for support of families, charitable contributions and travel.
- C) - Prominent American concerns doing business in Germany are using our services in connection with the transfer to the United States, after conversion, of interest, dividends, royalties collected in Marks in Germany.
- D) - We have been instrumental in liquidating funds inherited by United States citizens or residents in Germany.
- E) - We have received from German residents of the United States desirous of returning to Germany to take up permanent residence there, dollars which were credited to the account of the Deutsche Gold- und Auswechselbank for the purpose of conversion into Marks to be paid to these emigrants upon their arrival in Germany.

The gross volume of all transactions completed during the first four months of 1941 amounted to slightly under \$4,300,000.

RG  
Entry 131  
File FP C  
Box Germany - American  
Press  
174

- 2 -

## II - ITALY

- A) - We continue to carry current accounts in the names of Italian banks and firms and effect payments and collections on their behalf, including all the routine banking transactions involved in an ordinary correspondent relationship.
- B) - Prominent American concerns doing business in Italy are using our services in connection with the transfer to the United States, after conversion, of interest, dividends, royalties collected in Lires in Italy.
- C) - For American investors, holders of Italian shares and dollar bonds in default, we have been instrumental in the sale and disposal thereof in Italy.
- D) - We have made and are making remittances representing gifts, support of families and charitable contributions, mainly for account of Italian residents in the United States and for the Catholic Church. Considerable payments of this kind have been made to the Vatican, the Society of Jesus and various missionary societies in Italy. Other sales are made mainly to steamship companies, passenger, travel and freight agencies and American and Italian banks.
- E) - We are transferring funds to subsidiaries and agents of American firms in Italy and to the Italian Offices of the American Press.

The gross volume of all transactions completed during the first four months of 1941 amounted to slightly under \$1,900,000.

## III - JAPAN

- A) - We continue to carry current accounts in the names of Japanese banks and firms, most of whom are established in New York, and effect payments and collections on their behalf including all the routine transactions involved in an ordinary correspondent relationship, such as opening of commercial credits on a fully

DECLASSIFIED

Authority NP 877092  
By m311 NARA Date 3/28/00RG 59  
Entry 381  
File: Claims Restitution  
Box. 2

JNSO

Central

February 2, 1948

To - Mr. Oppenheimer

Subject: Mr. Oliver's Memorandum on the Nature and Privileges of the Successor Organization to Heirs of Jewish Property in U. S. zone, Germany.

I talked to Mr. Oliver about one point in his memorandum, the recommendation that we discuss with the Jewish Restitution Commission only points one and two of his memorandum. He agreed that there was no special reason for not wishing to discuss point three as well, on the understanding that the responsibility for defining the Jewish property to be turned over to the successor organization clearly belonged to DABUS. Since we plan to go into the whole subject in some detail with the Jewish Restitution Commission, I suggest we also indicate to them our interest in seeing that only Jewish property is turned over to the successor organization for Jewish property.

I gathered from the meeting in Mr. Hickerson's office on January 29 that specific clearance for the Department's proposed position should be obtained from the Legal Advisor in person. I believe Mr. Oliver's memorandum points out the legal problems involved and the possibility that a precedent may be established. I therefore suggest, and Mr. Oliver agrees, that you present the problem to Ernie Gross and obtain his concurrence to the suggested course of action, as summarized in Mr. Oliver's memorandum. As soon as that has been done I assume it will be possible to arrange to meet with representatives of the Department of the Army.

cc: A-S - Mr. Wiesner  
OE - Mr. Oliver

CE: EALightner, Jr:cal

320339

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531K AO 190  
File: RESTITUTION - General  
Box 53LAW  
59

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

STAFF CABLE CONTROL

DATED 121902Z INCOMING MESSAGE RECD 131525A OCT 46  
677/12 eh**RESTRICTED**

DEFERRED

POLITICAL DIVISION

OCT 14 1946

FROM : AGWAR FROM WDSCA ES  
TO : OMGUS  
REF NO : W-82981

Recurad July WX-94867 fol State Dept comments  
are based on Draft Restitution Law of 23 Sept brought by Lowenthal  
and views of Jewish groups repeated to you by tel Sec. State to  
US POLAD number 2010, 3 Oct.

400-L-Hest General

1. If OMGUS favors single restitution law  
racial and religious victims and also objects of Nazi action  
such as labor unions, cooperatives political parties, as in  
present draft, distinction necessary in various sects of law.  
Criteria governing restitution may be different for persons  
who were victims of racial, religious, and political persecu-  
tion, together with racial and religious organizations, on the  
one hand, from those applicable to political and economic organ-  
izations on the other. Separate law is not favored but fol-  
paragraphs illustrate differences of treatment which may be  
appropriate.

2. Heirless property and community and  
foundation property views expressed Paragraph 3 WX-94867  
apply. Believed that in loss of Jewish property successor  
organizations should be designated or approved by Mil Govt  
and that appearance of designation by German Auths will meet  
strong objection. In case of other properties such as former  
Arbeitsfront Initiation Policy of succession by German Auth  
is not objectionable but political and economic importance re-  
quires close scrutiny by Mil Govt for consistency with basic  
objectives of occupation.

3. Re pers and machinery of adjudication,  
not notwithstanding Paragraph 1 WX-94867 it is felt that for  
claims based upon racial discrimination some participation  
of Allied pers is desirable. If proposal of Jewish groups

AGO IN 39007

**RESTRICTED**

Copy No.

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

10/14/46  
116

320890

DECLASSIFIED

REPRODUCED AT THE NATIONAL ARCHIVES

Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531K A0190  
File 9400R  
Box 1031-6004  
S3

REF. NO.: W-8298

~~RESTRICTED~~

If Allied Person restitution chamber is unacceptable, then plan of Qerdorff may do if there is Mil Govt review not observed power but as matter of right review to be had by Board or Tribunal constituted for this purpose. Assumed that appeals to Oberlandesgericht being on law only will be rare. Plenary review on facts and law could thus normally lie direct to Mil Govt. We realize such provisions might under legislative methods not be included in German law but in separate Mil Govt enactment. Designation of pers of lower courts dealing with these matters should be add by Mil Govt.

4. Hoped that steps to obtain quadripartite approval will not be allowed to delay enactment in US Zone. Possible to suspend particular proceedings relating to Labor Unions, Political Parties, etc. if desirable rather than delay restitution law as whole.

5. Re Para 4 WX-94867, still considered desirable US take leadership in advancing indemnification legislation, recommended that approval of interim awards law (understood to be imminent) be followed up by further consideration indemnification program.

WX-94-67 AGC IN 32709, 20 July 46, Legal

ACTION

LEGAL

SUSPENSE: 16 OCT 46

INFORMATION

OSS  
ECON  
POL AFF  
FIN  
LAFC  
CONT OFF  
MANPWR  
CIV ADMIN

AGC IN 39007

14 Oct 46

1045A CB/end REF NO: W-8298

~~RESTRICTED~~

320391

DECLASSIFIED
Authority NND 881032
By AT NARA Date 3-24-00

RG 59  
Entry 50-54  
File 262.1141  
Box 1061



DEPARTMENT OF THE ARMY  
OFFICE OF THE UNDER SECRETARY  
WASHINGTON, D. C.

GEO  
Mr. Kiefer

11 April 1950

Mr. C. E. Conger  
Bureau of German Affairs  
Department of State  
Room 4029, New State Dept. Bldg.  
Washington 25, D. C.

Dear Mr. Conger:

The inclosed letter dated 7 April 1950 from the Rev. Duncan F. Dodd, Sea Cliff, New York, is forwarded as a matter pertaining to your office.

Sincerely yours,

A. L. HAMBLEN  
Col., GSC  
Asst. to Deputy

1 Incl.

DEPARTMENT OF STATE  
GERMAN AFFAIRS

File - See to for lead  
Apr. 14 - 1950  
W.D. 12 AM 11

DCP	UNIT
Anal	40

X 014334

320392

4-777

262.1141/4-750

4-750

DECLASSIFIED  
Authority MWD 881032  
By AI NARA Date 3-24-00

RG 59  
Entry MS Dec. 50-54  
File 262.1141  
Box 1061

11 April 1950

Mr. C. E. Conger  
Bureau of German Affairs  
Department of State  
Room 4029, New State Dept. Bldg.  
Washington 25, D. C.

Dear Mr. Conger:

The inclosed letter dated 7 April 1950 from the Rev. Duncan F. Dodd, Sea Cliff, New York, is forwarded as a matter pertaining to your office.

Sincerely yours,

1 Incl.

A. L. HAMBLEN  
Col., QSC  
Asst. to Deputy

X 014334

4-771  
320393  
-750

DECLASSIFIED  
Authority MWD 881032  
By AI NARA Date 3-24-00

RG 59  
Entry DS Dec. 50-58  
File 262.1141  
Box 1061

In reply refer to  
GER

APR 21 1950

My dear Mr. Dodd:

Reference is made to your letter of April 7 which has been transmitted to this Department by the Department of the Army and in which you request that some action be taken to prevent the taking of certain real property from William Voigt in Munich by transfer to the Jewish Restitution Successor Organization.

(1) In November 1947, the United States Military authorities promulgated in the American Zone of Germany Military Government Law 69, the object of which was to effect the restitution of identifiable property of which the victims of the Nazis had been wrongfully deprived in Germany during the Nazi regime. The law recognizes that from January 1933 to the end of the war many persecutees lost their property in Germany through various forms of direct and indirect as well as partial and complete confiscation. It also recognizes that from the time of the first Nuremberg race laws in September 1935 all Jews in Germany were under official pressure to dispose of their property and permits such Jews, if they wish, in general to reverse any transactions by which they disposed of their property after that date, regardless of the possibility that no confiscation, as defined in the law, may have occurred. The law permits the present holder of any claimed property to rebut any presumption of confiscation and, if successful, retain the property, unless the claimant insists on reversal of a transaction occurring after September 1935.

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The Reverend	<i>dm</i>	
<u>Dwight F. Dodd,</u>		
Sea Cliff Methodist Church,		
95 Tenth Avenue,		
Sea Cliff, New York.		

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Authority NND 881052  
By AT NARA Date 3-24-00RG 59Entry MS Dec. 50-58File 262.1141Box 1061

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Military Government Law 59 also recognizes that in many cases the former owners or their heirs are no longer alive and thus cannot claim properties covered by the law. In order to prevent such properties from remaining in the hands of despoilers, the law provides for the appointment of successor organizations which are entitled to file claims in their stead. In the case of heirless Jewish properties there was appointed a Jewish Restitution Successor Organization composed of the principal Jewish organizations of the world which uses properties which it acquires in this manner for the relief and rehabilitation of the surviving Jewish victims of Nazism.

In accordance with Military Government Law 59 there has been set up in the American Zone of Germany a system of restitution courts which adjudicate the claims filed pursuant to the law. In this connection it is pointed out that the law permits amicable settlements between the claimant and present holder of the property, which must, however, be approved by the courts, and most of the cases which have so far been concluded under the law have been handled in this way.

It would appear from your letter that Mr. Voigt's property has been the subject of a claim by the Jewish Restitution Successor Organization. Although you state that Mr. Voigt's property is being taken away from him, there is no reference in your letter to court proceedings, and the Department ventures to suggest that the case may in fact not as yet have progressed to the point of a final decision. If the Voigts acquired the property from the former Jewish owner in 1953, they have, as indicated in the foregoing, a possibility of retaining the property provided they can rebut the presumption of confiscation on which the present claim is probably based, and it is assumed that they would make the fullest use of this possibility.

The Department is confident that Mr. Voigt's rights in the matter will be given full and fair consideration by the German Restitution Courts. Because the case is one for decision by the established judicial process, you will appreciate that any intervention therein by the Department would be quite inappropriate, and for this reason the Department cannot accede to your request for such intervention, however much it appreciates your concern and motivation.

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At the same time the Department suggests that you may wish to communicate directly with the civilian Restitution Successor Organization in regard to any aspects of the case which you may desire to bring to their attention. The address of the organization is not known to the Department but it is felt that a letter addressed to them in care of the Property Division, Office of the United States High Commissioner for Germany, Frankfurt am Main, Germany, will be duly forwarded.

The Department hopes that the foregoing information will be helpful to you in your further consideration of the case.

Sincerely yours,

For the Secretary of State:

*[Signature]*  
 George M. Foster  
 Officer in Charge  
 German Property Affairs  
 Bureau of Foreign Affairs

APR 21 1950  
*[Handwritten mark]*



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Authority NND 881052  
By AT NARA Date 3-24-00RG 59  
Entry MS Sec. 50-54  
File 262.1141  
Box 1061REV. DUNCAN F. DODD, PASTOR  
TELEPHONE: GLEN COVE 4-1847

## Sea Cliff Methodist Church

95 TENTH AVENUE  
SEA CLIFF, N. Y.RECEIVED  
COORDINATION & RECORD  
DIVISIONAPR 10 10 58 AM '50  
OFFICE SECRETARY OF THE ARMY  
April 7, 1950U. S. Army Authority  
In Charge of German Occupation  
Washington, D. C.

Dear Sirs:

This letter is vaguely addressed because I lack proper information. It is my hope it will be placed in the proper hands immediately. If it is not, whatever might be done will be too late.

At the close of the war when my son, who was a Prisoner of War in Germany for 27 months, was mustered out, we were asked for any information concerning those who had befriended or helped him. At that time I filled in the form with information concerning William Voigt and his wife. The kindness of these two people to my son during the days of his being a prisoner was the one ray of sunshine in a very bitter period. They smuggled food and clothing to him on very many occasions. They even tried to make plans for his escape into Switzerland. Certainly what they did for him was of inestimable value.

Word has just come to us by air mail from friends of the Voigts (I am told that this word is sent without Voigts' knowledge) that the small piece of land they own and the little house they have built on that land are being taken away from them by the "Jewish Restitution Successor Organization." (This is the name sent to me from Germany. It apparently is a translation and may not be the proper one.)

Mr. Voigt's property is at 9 Maria Josefa Street, Munich. They have been living there since the war, and have built a small house to replace the destroyed buildings. This I am sure of, for they have written me and sent me photographs of the place before and after.

This is the information which now comes to me by air mail from an interested friend. I presume its reliability could be checked if those in authority were interested to do so.

The parents of Mrs. Voigt bought this property October 18, 1933, and gave it to Mr. and Mrs. Voigt. The former owner of the land was a Jew. He sold the land voluntarily, without any coercion, and granted a deed to that effect. He died in 1943 at Berlin, and was not in any way troubled by the Nazis. He left no heirs.

Papers were served on Mr. and Mrs. Voigt on January 19, 1950, by the above mentioned society -- Jewish Restitution Successor Organization, Munich, 8/IV Muehlbaur Street, demanding that they give back to this office the land because it formerly was owned by a Jew.

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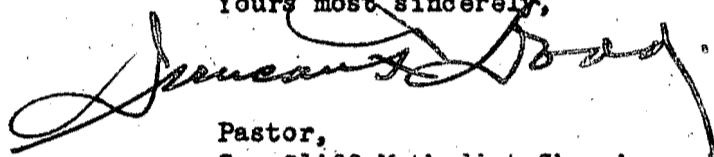
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I am greatly concerned about this. Their friends feel sure that if Mr. Voigt is put out in this way, at his time of life, the results will be disastrous. Here is a man who served one of our citizens in a time of his great distress, during the war, and there now is an opportunity for us to plead his cause. It seems that our authorities should look into this matter immediately, to see that in righting one set of wrongs another serious wrong should not be perpetrated.

Therefore I request that if it be in any wise possible you see that something be done in this matter.

Yours most sincerely,



Pastor,  
Sea Cliff Methodist Church

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Authority NND 881032  
By AI NARA Date 3-24-01RG 59Entry 105 Dec. 50-51File 262.0041/4-2051Box 1046

STANDARD FORM NO. 64

CONFIDENTIAL

## Office Memorandum

• U.S. GOVERNMENT  
~~UNDER SECRETARY~~TO : U - Mr. Webb  
Thru: *s/s* *RS.*  
FROM : GER - Henry A. Byroade

APR 26 1951

DATE: April 20, 1951.

SUBJECT: Impending Conference Between Mr. Webb and the Jewish Organizations.

DEPARTMENT OF STATE

(D) Mr. Seymour J. Rubin, Washington attorney for the Jewish groups, has given a tentative summary of the questions which the Jewish representatives intend to raise with you. This is reproduced below, together with our comments and recommendations as to the remarks which you might make on each topic.

1. The status of restitution, including modification of the Occupation Statute, the type of contractual arrangements to be entered into with the German Government as to performance of that contractual obligation, etc.

*396.1-15G*  
Comment: Restitution of property taken by the Nazis from persecutees in Germany has been implemented by the Germans since the inception of the programs, which, however, lie within the reserved powers of the Allies, who have exercised close supervision thereover. The Jewish organizations have been greatly concerned that the present negotiations looking to contractual arrangements with the Germans might result in the withdrawal of Allied responsibility in this field with the possible consequence that the Germans would then sabotage the programs. In reply to various communications from the Jewish groups during recent months, we have told them that our policy had been and would continue to be that the restitution claims of Nazi persecutees must be honored, that the future arrangements for the restitution and Allied programs were under discussion in the Intergovernmental Study Group in London, and that pending the outcome of these discussions, we could not predict what future arrangements for the restitution programs would be agreed upon.

Recommended remarks: The discussions on this subject in the Intergovernmental Study Group have now been substantially completed, and a report will shortly be submitted to governments. Pending final action on this report by the governments, it is not possible to discuss its contents. At the same time, the Department is glad to reiterate that its policy in this field remains unchanged, and the Department has no reason to fear that whatever future arrangements may be agreed upon in the restitution field will be in any way prejudicial to the interests of the persecutees.

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2. The transfer problem both with respect to JRSO funds and the funds of individual restitution claimants.

Comment: Most of the individual claims for the restitution of duress properties in Western Germany originate outside Germany, and there is a substantial number of restitution claims from the Jewish Restitution Successor Organization, a corporation of the State of New York which was organized in 1947 under the auspices of Military Government by the principal Jewish organizations of the world, to claim and succeed to duress properties of which the owners or their heirs had perished. As these claims are disposed of, they become foreign assets in Germany, and for the most part are the object of very heavy pressure to transfer abroad for the benefit of the owners. Such transfer has not been permitted because of Germany's critical foreign exchange position. Since earlier this year, however, it has been possible for non-resident owners of blocked balances in Germany to sell such balances to other non-residents for investment purposes only, and a certain volume of such trade has developed, with the mark valued at no more than about 60% of par. The JRSO has not accumulated any substantial funds in Germany so far, but is expected eventually to receive 50 - 100 million Deutsche Marks (\$13 - 26 million); the JRSO has recently discussed with HICOG officials the question of converting this potential asset into unrequited exports or foreign exchange to be used for the rehabilitation and resettlement of surviving Jewish victims of Nazism, principally in Israel.

Recommended remarks: The JRSO proposals for transfer of JRSO funds are now under sympathetic study, and it is recognized that there are countless individual restitution accounts in Germany which also are involved in the transfer question. The question is very complex and has a variety of aspects which have implications in other fields. The greatest difficulty in the way of an early satisfactory solution is, of course, the continuing German international payments deficit, which is being met from foreign aid provided largely by the United States taxpayer. The Department can not indicate at this time what position it may be able to take on the transfer problems involved in JRSO and other restitution funds.

3. The question of a unified general claims law along the lines of the law now in effect in the American Zone. Also, the question of implementation of the general claims law and the question of assumption of responsibility by the Bonn Government rather than the Laender for payments due under it.

Comment: At the

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Comment: At the present time there are laws enacted by the Laender (states) in the American Zone which provide for compensation to persecutees for loss of life, limb, liberty, health, and economic advancement, as well as restitution of certain special fines and taxes. Similar laws are in effect in the Laender of the French Zone. Coverage varies, particularly in regard to non-resident persecutees, who for the most part either share in the benefits of the laws only partially or not at all. There is no general claims legislation of any significance in the British Zone. For some time there has been considerable pressure from persecutee groups to obtain a uniform general claims law for all of Western Germany, and this has been supported by the High Commission. The matter has been for some time under discussion in the Intergovernmental Study Group, where it has not been possible to reach agreement, and with and among the Germans, whose position on the matter is not clear at this time.

Implementation of the general claims laws is beginning to run into some difficulty in the American Zone, where some of the Laender are encountering difficulty in meeting the financial burden which they assumed. It has long been recognized that some Laender are in a better position than others to meet the cost of general claims, and this has been used as an argument for a uniform Federal law or at least for grants by the Federal Government to those Laender which find it difficult to meet payments.

Recommended remarks: The question of obtaining general claims legislation throughout the territory of the Federal Republic is continuing to receive serious consideration. At the same time, it should be recognized that this is a matter which can only be worked out through negotiation with the Germans rather than by imposition of a solution. As for meeting the costs of the general claims programs, it is understood that the Federal Government in Bonn recently indicated that it would be prepared in principle and under certain conditions to assist some of the Laender in meeting their obligations under the respective laws.

4. The question of the equalization of burdens law and the taxes proposed to be imposed under it on restituted property, particularly in relation to the effect of these problems on the bulk settlement.

Comment: There is at the present time a bill before the German Bundestag (parliament), which is known as the equalization of burdens bill. It is intended to supersede an interim law, known as the Immediate Aid Law. The purpose of both measures is to provide payments and other

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forms of assistance to persons who are in need thereof as a result of losses suffered through currency reform, bomb damage, and expulsion from Eastern Europe (the ethnic Germans who were transferred after the war from Hungary, Roumania, Poland, etc.). The funds for this assistance program are derived, or to be derived, from certain levies on real property; the precise rate of tax and period of payment have not been finally agreed upon; however, the total levy may run to 50 - 90% of the value of the property. Under the Immediate Aid Law the property of United Nations nationals is exempt from the taxes, but under the Equalization bill there is no provision for exemption. However, the Occupying Powers agreed in the Intergovernmental Study Group last November that the Germans should be required to exempt from the Immediate Aid and Equalization levies the property of United Nations nationals, of non-resident persecutees, if not such nationals, and of restitution successor organizations, for a period of six years. This is now under discussion with the Germans. Until recently the German government had taken the position that they could not accept an exemption for any interest from the proposed equalization levies. However, the latest reports indicate that a compromise solution lies well within the realm of possibility.

The reference to the bulk settlement relates to proposals now under negotiation between the JRSO and the German Laender for settlement in lump-sums of JRSO restitution claims. JRSO has been concerned that the proposed bulk settlement, which in some respects already represents a sacrifice by JRSO, may be further whittled down if JRSO is forced to pay equalization levies.

Recommended remarks: The Department continues to be very much interested in the problem of exemption of United Nations and persecutees property from equalization levies. This matter is now under consideration with the Germans and there is reason to feel that these discussions will result in some measure of success. It is, however, too early to predict just how these negotiations will come out.

5. The question of judgments against the Reich, particularly in reference to the fact that a recent decision has held that such judgments can be entered, but has left unclear the question of responsibility of the Bonn Government or any other authority for payment of such judgments.

Comment: This question involves restitution cases where the property in question has disappeared as a result of action for which the Reich Government is held accountable. It is possible under the restitution

laws to

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laws to lodge restitution claims for such property and a duly appointed authority of the Land where the property is claimed normally acts as defendant for the Reich. If a claim in such a case is approved, the judgment is entered against the Reich. There has been considerable question of the practical value, at the present time, of such judgments, since there is understood to be practically no possibility of having them satisfied; a possible exception may be the American Zone where the general claims legislation conceivably could provide a basis for payment by the respective Laender. From the legal point of view, there is at the present time no successor to the Reich.

Recommended remarks: The problem referred to relates to the general problem of successorship to the Reich which, as will be recognized, presents very complex and difficult issues. It also has a bearing on the question of general claims legislation. In the American Zone restitution claims against the Reich can quite possibly be taken care of under the general claims laws. However, until more information is received on the attitude which the German courts are taking in this matter, the Department is unable to comment extensively. Of course, the Department is interested in the whole problem of general claims legislation for all of Western Germany as pointed out above.

6. The possibility of a general speedup of the restitution program.

Comment: Restitution laws have been in effect in the American and French Zones since November 1947; in the British Zone a comparable restitution law was not enacted until the Spring of 1949. Implementation in the American Zone was slow during the initial period, but has been improving steadily. As of March 31, 1951, of the 98,489 claims filed, 32,554 or approximately one third, had been finally disposed of. Recently the rate of disposition has been running at around 2,000 cases per month.

Military Government and subsequently HICOG have maintained a close watch over German implementation, and Mr. McCloy in particular has exerted considerable pressure on the Germans to speed up the rate of disposition. One of the most promising aspects of the picture at the present time involves the proposed bulk settlements with JRSO, of which one has been initiated; the JRSO claims constitute almost one half of the total claims. There is every reason to hope that the bulk of the restitution program in the American Zone will be out of the way by the end of this year. A similar situation is understood to prevail in the French Zone. Progress in the British Zone has been much less due to the lateness of British Zone legislation.

Recommended remarks:CONFIDENTIAL

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Recommended remarks: The Department has been in the past and will be in the future most anxious that the restitution programs in Germany be completed as rapidly as possible. Bearing in mind the present and anticipated rate of disposition and the prospect of JRSO bulk settlements which have the full support of HICOG, it is hoped that the bulk of the program in the American Zone can be completed this year. The Department is of the opinion that everything possible is being done in the field towards that end.

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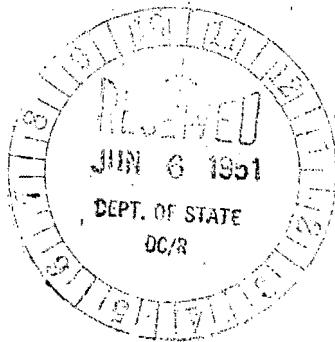
By AI NARA Date 3-24-01

RG 59

Entry MS. Dec. 50-54

File 262.0041/6-151

Box 1046



The Hon. James E. Webb  
Undersecretary of State  
Department of State  
Washington, D. C.

Dear Mr. Webb:

This will refer to the kind opportunity afforded by you on April 27th to the representatives of the undersigned organizations for a discussion of various current matters involving restitution and related questions in Germany. During the course of that discussion with you, in which Mr. Geoffrey Lewis of the Department also participated, reference was made by our delegation, among other things, to the then current deliberations of the ISG on restitution and to the pending application of the Jewish Restitution Successor Organization (JRSO) for a transfer arrangement.

With reference to the ISG discussions, it was requested by our organizations that as and when the final recommendations of the ISG were submitted on restitution, we be given the prompt opportunity to be informed concerning these recommendations and to consult with the Department regarding them. You will recall that it was indicated by you that our request would be granted. Within recent weeks information has been received that the final recommendations of the ISG on restitution have now in fact been submitted to the respective governments and that the latter are now considering these recommendations. Under the circumstances, the undersigned respectfully, take the opportunity to request information at the earliest possible date regarding the nature of these recommendations and to request the privilege of presenting their views on the recommendations.

In connection with the pending JRSO application, it was requested by us on April 27th that, if possible, an early and favorable decision be arrived at by the Government. The information given to us at the time was that the application had been received from HICOG and was being given the active consideration of both the State Department and other branches of the Government. While it is not regarded by the undersigned as necessary to repeat herein the justifications in favor of the JRSO application, attention should be called to the urgency and the importance of this matter and to the considerable delay which has already elapsed. It is sincerely hoped that a prompt and favorable decision can be communicated.

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The remaining items included in the aforementioned discussion on April 27th, as well as in the memorandum submitted by the undersigned at that time, continue to be of outstanding importance, and it is hoped that favorable action by the U.S. Government will also be possible in the case of all of them.

The undersigned organizations take this opportunity to express to you again their gratitude for your past and continuing interest and consideration in all of these matters.

Sincerely yours,

Abraham Fundman  
JEWISH AGENCY FOR PALESTINE

Edward Hite Darby  
THE AMERICAN JEWISH JOINT DISTRIBUTION COMMITTEE, INC.

N. Robinson  
WORLD JEWISH CONGRESS

Jacob Blaustein  
AMERICAN JEWISH COMMITTEE

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By AI NARA Date 3-24-00

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Box 1046

In reply refer to  
GEA.

III 10 1951

6. Government has taken up  
the case and has been given  
a definite date for its completion.

refer to (2) 10 1951

Dear Mr. Rock:

During the course of the discussions on various aspects of the internal restitution program in Germany which took place on April 27, 1951 between the Under Secretary of State and yourself, and with representatives of the American Section of Jewish Agency for Palestine, The Joint Distribution Committee, The World Jewish Congress, The Jewish Restitution Successor Organization, and the American Jewish Committee the understanding was given that the Department would amplify its position on certain problems raised at the meeting. The aforementioned organizations restated their special interest in two of the problems in their letter of June 1 to the Under Secretary.

It appears that the question of greatest concern to the various groups is whether we contemplate retaining the reserved power over restitution after the decision of the Foreign Ministers at their Brussels meeting to place Allied-German relations on a new basis has been realized. I must tell you quite frankly that we do not contemplate the retention of the reserved power. In order to achieve the objective laid down by the Foreign Ministers, it will be necessary to abolish the Occupation Statute and to replace various reserved powers, including the power over restitution, with contractual arrangements. It does not, however, preclude us from requiring, as part of the contractual arrangement, guarantees from the German Federal Government which will assure satisfactory conclusion of the internal restitution program, and it is our intention to demand such guarantees. The Department has now approved the recommendations of the Inter-governmental Study Group on Germany regarding the commitments to be asked of the Government of the Federal Republic in this

field.

Mr. Eli Rock,  
Executive Secretary,  
Jewish Restitution Successor Organization,  
270 Madison Avenue,  
New York 16, New York.

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field. Although I am not in a position to disclose the terms of the Intergovernmental recommendations, I can assure you that careful consideration has been given to the suggestions on this subject that were received.

With respect to the problem of the use of Deutsche Mark balances acquired by the Jewish Restitution Successor Organization, we have given careful consideration to this issue. The Department recently requested the United States High Commissioner to seek the concurrence of his British and French colleagues in a plan whereby JRSO would be able, under appropriate safeguards, to use its mark balances for the purchase and export of certain goods needed for resettlement and rehabilitation work. In authorizing this departure from the general policy regarding utilization of foreign-held mark balances, the Department took into account the special considerations which apply to the funds held by JRSO. In particular, we were influenced by the history of the establishment of the organization, the charitable nature of its operation, and its assistance to the Occupying Powers and to the Federal Republic in finding new homes for persons who would otherwise remain a charge on the German economy.

The successorship of the Federal Republic to the Reich is the most difficult question you have raised. The position of the three Occupying Powers has, of course, been clearly expressed in tripartite statements to the effect that the Government of the Federal Republic is the only German Government freely and legitimately constituted and therefore entitled to speak for Germany as the representative of the German people. We are not aware of any instance where the successorship factor has prejudiced the merits of restitution claims, but at the same time we recognize that this is not a final and satisfactory answer. The successorship question involves exceedingly complicated legal and political considerations, bearing upon many of the major issues involved in determining the future status of the Government of the Federal Republic. The problem is not limited to restitution, and it cannot be resolved solely within that context. At this stage I can only assure you that the Department is well aware of the importance of this question in relation to restitution and will not fail to exert its efforts to find a satisfactory solution.

The form of this reply confirms our understanding that the

representatives

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representatives of the other above indicated organizations are  
 agreeable that it should be made through you.

Sincerely yours,

For the Secretary of State:

(Signed) G.W.L.  
 Geoffrey W. Lewis  
 Deputy Director  
 Bureau of German Affairs

Handed to Eliot R. Baker  
 by Bill Lewis 7/15/51  
 J.W.

GER:GEA:GWBaker:gw:etg 7/6/51

PDA  
 GPA - Mr. Williams

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## The Giver

**January 22, 1948**  
*(Resolution)*

A-S Mr. Wigner

A-S Mr. Hemmendinger

**Successor Organization to Heirless Jewish Property in U. S. Zone, Germany.**

I should like to make two comments upon Mr. Lightner's memorandum of January 15 on the above subject. In November 1946 representatives of Jewish organizations conferred with General Clay in New York. The results of that conference were put by the Jewish organizations into a memorandum addressed to the Department of State, which was revised somewhat after discussions which they had with the Department. The first point of the memorandum read as follows: "Military Government and not the German authorities should designate the successors to heirless and unclaimed Jewish interests in corporations and unincorporated bodies and to Jewish communities and foundations; the successors to the claims of Jews who died leaving no heirs; and the persons who may claim on behalf of the aforementioned Jews and Jewish bodies before the tribunals provided in the law. Military Government should recognize a Jewish organization, representative of Jews throughout the world, including Jews now in Germany, as trustee for such Jewish interests. The property or its proceeds acquired by such trustee should be used exclusively for the purpose of rehabilitation and resettlement of Jews. Appropriate provision should be made for the protection of the interests of surviving members in Germany of persecuted religious communities. These principles should be expressed in the letter of approval of the draft law or in appropriate Military Government legislation."<sup>22</sup>

The memorandum in question was transmitted to General Echols, Chief of the Civil Affairs Division by letter of December 2, 1946 signed by General Hilldring. The first sentence of the letter read as follows: "The Department of State has carefully considered the annexed memorandum dated November 27, 1946 by the American Joint Distribution Committee, The Jewish Agency for Palestine, the American Jewish Committee, the World Jewish Congress and the American Jewish Conference, and concurs in the comments and suggestions made therein with respect to the draft German restitution law of October 18, 1946, with the following qualifications: With respect to the revised sections 6, 11, 23, 30a and 50 set forth in the memorandum, the Department's concurrence is in the principles expressed therein; it recognizes that the exact wording of the law must be worked out by the authorities in Germany." None of the qualifications referred to related to the appointment of a successor organization.

It is believed that the letter was handed to General Clay by the Civil Affairs Division before General Clay left for Germany. The letter was drafted in AH and cleared by Mr. Robinson for ESP, Mr. Oliver for GA, Mr. Harris for CE, and Mr. Oppenheimer for LE.

Given this background I do not think it would be correct for the Department to emphasize subsequent commitments which may have been made on this subject by General Clay, because he has undoubtedly acted in the belief that he has been carrying out the instructions of this Government. Now that General Clay has specifically asked

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BY MJSR1 NARA Date 3/28/06

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the State and Army Departments whether the proposed successor organizations for Jewish property is appropriate, the Department should accept full responsibility for the reply made to him. It is true that since a year ago December any discussion of which I am aware of the appropriateness of the organization has turned on whether it is sufficiently representative of Jewish interests. Since other issues have now been raised, they should be met on the merits. The extent to which we are already committed is important, but the commitment is rather that of the Department of State than of General Clay.

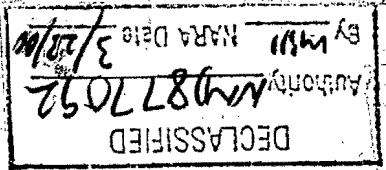
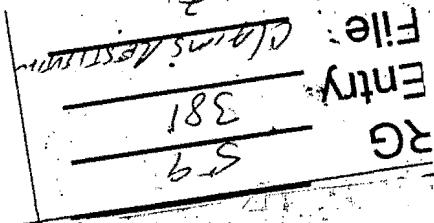
I believe that there is justification for the decision that the title to heirless Jewish property in Germany be taken by a non-German organization. This is indeed one of the points about which the Jewish organizations have, from the beginning, been deeply concerned, because on both emotional and practical grounds they consider that the successor organization can not function effectively as a local German organization. They have pointed out that the Jews remaining in Germany are a weak and insignificant minority compared with those now outside Germany. Of 600,000 German Jews, they say, 300,000 survive and of these only 15,000 are in Germany. There are many more in the United States than there are in Germany. It is fitting, therefore, they maintain that the organization representing their interest should be a foreign organization in Germany—not a local organization.

Nevertheless, if a solution like that proposed by Mr. Lightner, that the commission operate in Germany through a subsidiary incorporated in Germany, can be worked out technically it may help overcome opposition both in Washington and in Germany to the operation of a foreign corporation. I believe that the legal aspects of the proposal require careful study before it can be accepted and that there may be alternative courses along the same line which would be more practical. For instance, the regulation or order by which the successor organization is to be recognized by military government could be so drafted as to constitute a charter.

The propriety of a successor organization which is not German is supported by a proposal which is now under discussion between the Department of State and the Alien Property Custodian to allow an appropriate successor organization to be designated by the President to claim under the Trading With the Enemy Act heirless assets in the United States seized by the Alien Property Custodian which, under the Act, are subject to return to members of racial or religious groups who were persecuted. I recommend that if the Department is satisfied with its previous position in this matter, it be discussed with the Department of the Army, its endeavor to satisfy them that the position is right; that if the Department is not satisfied, or can not persuade the Army, the proposal made by Mr. Lightner be discussed with representatives of the Jewish Restitution Commission to see if such a solution can be worked out.

cc: Mr. Oliver, OB  
Mr. Lightner, CE  
Mr. Oppenheimer, LE

320911



JRSO

13 June 1949

III-Wi-La-A-2670  
DRW/IR

SUBJECT: Participation of JRSO in Proceedings.

TO: OFFICE OF MILITARY GOVERNMENT FOR HESSE  
Property Division, Property Control Branch

1. In many instances JRSO has forwarded to Restitution Agencies statements similar to those quoted on the inclosure. In the opinion of this office JRSO is not to be considered entitled to examine the active legitimization of the claimant. In those cases where the Restitution Agency concerned has decided the claimant to be sufficiently legitimized, JRSO's claims for being granted participation in the proceedings should not be considered justified.

2. Since subject question constitutes a matter of principle, it is requested for your decision.

*Dr. Weißstein*  
Dr. Weißstein  
DICAH

1 Incl: a/n

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## AIRGRAM

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FROM: US Political Adviser for  
Germany, Berlin  
NO.: A-535  
DATED: July 3, 1948  
MAILED:  
REC'D:

Secretary of State,  
Washington.

A-535, July 3, 1948.

Following is text of OMCUS press release issued June 28, 1948:

"The Property Division, of the Office of Military Government for Germany (U.S.), announced today that pursuant to the terms of Regulation No. 3 under U.S. Military Government Law No. 59, "Restitution of Identifiable Property" issued today, the Jewish Restitution Successor Organization, a charitable organization incorporated under the laws of the State of New York, has been designated as the successor organization to claim heirless Jewish property in the U.S. Zone of Germany under the Restitution Law.

"By the terms of the Restitution Law, rights in property, subject to restitution, which can not be claimed by the persecutee or his heirs because he died heirless, pass to successor organizations appointed by Military Government. Under German law, such property would revert or "escheat" to the State; however, since the State, in most cases, contributed to the circumstances by which the persecutee died heirless, it appears more equitable to transfer the property to an organization which would use it for the general benefit of persecutees of the same race or religion.

"It is not possible for successor organizations to remove from Germany property recovered under the Restitution Law except pursuant to Military Government policies generally applicable to experts. The organizations are required to transfer property, not removable in accordance with such policies, to German legal entities established by them under German law in the U.S. Zone of Occupation which would have the status of charitable organizations and would use the property for purposes consistent with the general aims of successor organizations.

"The Jewish Restitution Successor Organization (JRSC) was chosen by Military Government as the Successor Organization for Jewish property since it represents most of the large Jewish charitable organizations which have been formed in various parts of the world. Its members consist of organizations from Germany, France,

England,

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UNCLASSIFIED  
A-535, July 3, 1948.

England, Palestine, and the United States. This organization filed its application with Military Government a short time ago, and after thorough investigation it has been approved as truly representative of the group which it has been appointed to represent.

"As provided in the Law, all claims for restitution of property under the Law must be filed with the Central Filing Agency at Bad Nauheim before 31 December 1948 or be barred. Successor organizations are entitled to file on or before 31 December 1948 claims for property subject to restitution which is not otherwise claimed, on the assumption that the persecutee died heirless, except in those cases where a person, entitled to file a claim for restitution, has filed a release or waiver of such claim with the Central Filing Agency before 31 December 1948."

MURPHY

TC Adams/mal

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JASO

g-852 Post Jewish Property  
CE FILES

A-S - Mr. F. G. Wiener

January 16, 1948

CE - E. A. Lightner, Jr.

Successor Organization to Heirless Jewish Property in U. S. Zone, Germany.The Problem:

To determine the Department's position in connection with Army Department's objection to our draft telegram to General Clay on the question of whether the Jewish Restitution Commission, incorporated in New York, is an appropriate organization to take over heirless Jewish property in the U. S. zone of Germany. Ref: CG 2119, October 29, 1947.

Discussion:

In considering this question within the Department Mr. Oppenheimer and I understood that General Clay had made commitments to leaders of American Jewish organizations to the effect that a representative Jewish organization wherever incorporated would be appointed by him as a successor organization to take title to heirless Jewish property in the American zone under the terms of Law No. 59, "Restitution of Identifiable Property". The Department in its dealings with the Jewish organizations has never raised any objections to the designation of a New York corporation. The discussions with the Jewish organizations date back nearly a year. In view of the foregoing it was felt that the issue whether an American corporation was acceptable was decided in the affirmative by General Clay and that the only question we were required to answer in replying to CG 2119 was whether or not the Jewish Restitution Commission was a truly representative body.

The Jewish Restitution Commission applied to the Department for recognition as the successor organization. Objections were raised on the grounds that Jewish organizations in Germany were not members. As a result of this correspondence the membership was expanded and additional persons were added to the governing board, including several influential representatives of Jewish organizations from the American zone. Thereupon we agreed that the Commission was broadly representative of Jewish interests throughout the world and a cable approving the representative character of the Jewish Restitution Commission was drafted and submitted to the Department of the Army. As I recall it was quite clearly indicated that we considered the Jewish Restitution Commission to be an appropriate successor organization since we

were

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were satisfied that it was broadly representative of Jewish interests. I understand, although I have not seen the letter, that the Department of the Army refuses to send this cable on the grounds that no organization incorporated in the United States, however international in character, should be appointed as the successor to heirless property in Germany.

Recommendations:

It is not clear why the Army did not raise this matter of principle long ago. It is rather late in the game to do so now. The Department I think does not take issue with the Army on the principle. There are undoubtedly important political considerations supporting the Army's recommendation. We will want to raise with the Army the fact that General Clay may have long ago committed himself to accept the American incorporated organization as the successor organization. I think we should not object to expressing the views suggested by the Army provided the message is carefully worded, taking into account the possibility that General Clay is already deeply committed, and provided we take steps at once to inform the Jewish Restitution Commission of our new position.

The telegram might be along the following lines: that State has been in correspondence with the Jewish Restitution Commission and has succeeded in getting it to broaden its membership so that it can now undoubtedly be considered a representative organization; that nevertheless Army and State are concerned as a matter of principle with the appointment of any foreign, that is American, organization as the direct successor to the title of heirless property in Germany; that we would prefer the appointment of an organization incorporated in Germany which could be a subsidiary of the Jewish Restitution Commission; that the latter would work through the subsidiary, which would hold direct title to the property; that we appreciate that it is rather late in the game to make this suggestion in view of the possibility that this may run counter to certain commitments General Clay may have made with Jewish leaders, but that we are endeavoring to obtain the concurrence of the Jewish Restitution Commission and we hope an arrangement can be worked out satisfactory to all parties; finally that General Clay's comments are urgently requested.

Since we have not indicated to the Jewish Restitution Commission that it would not take over direct title to Jewish property in Germany, we have an obligation to consult that organization. Therefore it is suggested that we invite the President of the Commission to Washington at once to inform him of joint-Army-State views which are about to be conveyed to General Clay. We would try to obtain the concurrence of

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the Jewish Restitution Commission to the principle that it operate indirectly rather than directly in Germany. Regardless of the reaction of the President of the Jewish Restitution Commission, we should send out the telegram to General Clay immediately after this interview.

CC: Le - Mr. Oppenheimer  
CE - Mr. Beam  
EUR - Mr. Hickerson  
A-S - Mr. Hemmendinger  
OE - Mr. Oliver

CE: EALightner, Jr:cal

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# RESTITUTION IN THE FOUR ZONES

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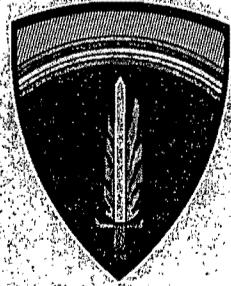
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NOVEMBER 1947

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)



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By WMSI NARA Date 1/4/00

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File GERMANY RESTITUTION

Box 84

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

Restitution in the Four ZonesRESTITUTION IN THE FOUR ZONESSUMMARY

1. The restitution program involves the returning to formerly occupied nations of property which was removed from them by Germany during occupation. In the execution of this program a number of specialized problems have arisen, which are discussed hereafter under two headings: restitution of non-cultural property and restitution of cultural property (including problems incidental thereto). Only three of these problems are individually important enough to be discussed in this summary.

2. It is important that the restitution program not be allowed to upset the agreed German minimum economy, which is important for Europe as a whole. For this reason, it has been necessary to restrict mandatory restitution to cases where the claimant can prove the use of force. This procedure is objected to by all claimant nations.

3. The US and British Military Governments agree that announcement should be made in October 1947 that the termination date for filing restitution claims in the US and British Zones of Occupation will be 30 April 1948. It may be anticipated that certain nations, particularly the French, will object to this early conclusion of the program. However, a termination of restitution is necessary for the stability of the German economy. The proposed date does not appear unreasonable inasmuch as the claimant United Nations will have had 3 years within which to file their claims.

4. The Soviets have unilaterally looted from their Zone enormous quantities of art works including the best items of the Dresden and Leipzig museums and approximately 983,000 items from the Berlin museums. Efforts should be made to induce the Soviets to return as much as possible of this material and if this fails at least to make it clear that the US does not regard such removal as a legal or proper act of international law.

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NANCE DIVISION

November 1947

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

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

Restitution in the Four ZonesRESTITUTIONDISCUSSIONINTRODUCTION

1. Scope of the Program--Restitution, as the term is used by Military Government, means the returning of property of all kinds removed from countries formerly occupied by Germany. The types of property which are subject to restitution, and circumstances under which restitutable, are defined in War Department Cable Number WX-85965 dated 3 December 1945 as follows:

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

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

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

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

The latest directive issued by Washington and released on 15 July 1947 summarizes restitution policy as follows:

"Par 17: Restitution.

a. You will proceed, consistent with agreements on restitution reached in the Control Council, to restore such identifiable property other than gold and transport essential to minimum German economy, to the government of the country from which it was taken. You will not consent to any extensive program for the replacement of looted or displaced property which has been destroyed or cannot be located whenever such replacement can be accomplished only at the expense of reparations, a self-sustaining German economy, or the cultural heritage of the German people."

2. Progress of Program--Many thousand works of art and other pieces of cultural material have already been restituted to their former owners. As to non-cultural property, claims had reached as of 31 July 1947 a total of 9,311 submitted by 11 United Nations and four ex-enemy states. Of this number, 2,647 claims, with a combined value of RM 223,374,278, have been satisfied. 871 have been rejected. 865 covered material which could not be located, and 4,928 claims (about 53% of the total received to that date) remain on the active list. It is expected that a considerable number of additional claims are yet to be filed.

3. Special Problems--The general program and policies covering restitution have for a long time been established and there is no need to reconsider or revise the program in its general outlines. This report considers a number of specialized

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

Restitution in the Four Zones

problems of an operating nature which do require solutions or which should be referred to in the forthcoming peace treaties with Germany. These problems, and the recommendations for dealing with them are grouped under two headings: problems of non-cultural restitution and problems of cultural restitution.

PROBLEMS OF NON-CULTURAL RESTITUTION

4. Restitution of Gold--The final act of the Paris Conference on reparations provides that all "monetary" gold found in Germany shall be pooled for restitution to countries in proportion to their respective loss of gold through looting or wrongful removal by Germany. All "non-monetary" gold found by the Allies in Germany is to be used for the rehabilitation and resettlement of non-repatriable victims of German action, and is to be administered by the Intergovernmental Committee on Refugees or its successor agency. "Non-monetary" gold is further defined, according to War Department Directives, as all "valuable personal property which was looted from victims of the Nazi government, whose national origin, owner or legal successor is unknown, in which case it is to be turned over to the Intergovernmental Committee on Refugees, or successor agency. There appears, however, to be a third category of gold which falls into neither of these definitions, i.e. gold which is not monetary but whose national origin, owner or legal successor is known and which would seem to be subject to restitution under current restitution concepts and practices. A concrete example of such a case is the following: The Czechoslovakian Restitution Mission has claimed 11,000 grams of gold bars, allegedly obtained from the melting down of rings, bracelets, etc., belonging to concentration camp inmates and removed from Czechoslovakia to Germany in March, 1945. The Czechoslovakian Government states it intends to satisfy, with the proceeds of this gold, the claims of surviving victims or heirs. If this gold still existed in its original form of jewelry, it would without any doubt be restitutable to Czechoslovakia. The question is whether the melting down of this identifiable jewelry makes it "non-monetary" gold within the meaning of the Paris Act. This problem may be raised by the USSR in an attempt to support the restitution claim of a country in the Soviet orbit and as a basis for criticizing the Paris Act, to which it is not a signatory.

- TGC

5. Conflict Between Restitution and German Economy--Quadrilateral agreement for restitution to United Nations provides that such nations have an absolute right to receive restitution of items which were removed by force. Provision is also made for the restitution of all other items removed from occupied territory insofar as such restitution is "consistent with reparations," which term has been interpreted by the Military Governor to mean restitution without lowering the German economy below the established level. Therefore, in cases where property was removed from United Nations but not by force, and in all cases of removal from ex-enemy nations, restitution is made only if the claimed items are not considered essential for the German minimum economy. This policy is not agreeable to any of the claimant nations, whether allied or ex-enemy, and specifically is not agreeable to France, one of the four occupying powers.

6. Burden of Proof in Claims Alleging Forced Removal--With the view of maintaining the minimum economy in its Zone, US Military Government has required that claimant nations desiring to take advantage of "the absolute right" provision referred to in the preceding paragraph must submit satisfactory proof that force was used in connection with the removal of the claimed object. On the other hand, the recent treaties with Italy and the other satellite states provide that "the burden of identifying the property and of proving ownership shall rest on the claimant government, and the burden of proof that the property was not removed by force or duress shall rest on the (ex-enemy) government." Although claimant nations, France as a case in point, have objected to being required to prove that the claimed property was removed by force, a change in the current policy would require reexamination of the entire question of the minimum economy and of restitution in the US Zone.

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

**Restitution in the Four Zones**

d. It is recommended that property looted by the Germans from the Baltic States not be restituted to the USSR until such time as the US Government has recognized the forcible annexation by the USSR of the Baltic States.

e. It is recommended that the US and British proposals to set 30 April 1948 as the termination date for the filing of restitution claims be approved, and that some such limiting date be included in any German peace treaty that may be prepared.

10. Replacement of Unique Objects—A special problem exists in connection with the replacement of unique cultural objects and works of art which were removed by the Germans from territories they occupied, and which cannot now be found. The original policy developed in principle by the European Advisory Council was that objects of this kind should be replaced in kind. However, the quadripartite definition of restitution, dated 7 April 1946 was equivocal on this point. The policy developed by EAC was substantially reversed in the SWNCC Directive of 15 July 1947 which prohibited "any extensive program" for the replacement of destroyed property if such a program would adversely effect "reparation, a self-sustaining German economy, or the cultural heritage of the German people." Present policy recognizes that the use of works of art and cultural objects as reparations is abhorrent to the civilized mind and is forbidden under general accepted principles of international law. Although the principle of replacement of artistic, historical or archeological objects, the restitution of which is impossible by the substitution of other objects of the same kind has been incorporated in the Italian, Hungarian and Bulgarian Peace Treaties, a similar provision in the German Peace Treaty would so damage the German cultural heritage that the rebuilding of Germany upon a democratic basis would be seriously endangered. Inasmuch as nations which have argued for replacement in kind have repeatedly spoken about the money value of the things lost, it is believed that they would in most cases be willing to add them to their reparations accounts.

11. Internal Restitution of Cultural Objects—The draft law for internal restitution still under quadripartite discussion contains adequate treatment of the restitution of cultural objects; should this law fail of quadripartite agreement, existing instructions indicate that the US will put it into effect unilaterally or bilaterally. A special problem exists, however, because of Military Government Laws No 52 and 53 blocking properties within Germany owned by persons outside of Germany as well as all works of art or cultural material of value or importance. It is anticipated that provisions for granting Military Government permission for prohibited transactions will become operative upon adjudication under the proposed law for internal restitution, or in the normal course of stabilization of the country. German law requires that export of objects of art listed on the "Verzeichnis der Nationalen Wertvollen Kunstwerke" be approved by an office of the Reich which has ceased to exist, but the functions of which should be provided in any plan for permanent German government.

12. Disposition of Ownerless Cultural Objects—A number of art collections seized by the Allies, including Goering's personal collection, contains much material the origin of which cannot be identified or for which claimants cannot be found. It is necessary, however, to consider such material as restitutable until MC is thoroughly satisfied that it cannot be identified, although undoubtedly a time limitation must be placed upon this process. Such material as is finally determined to be nonrestitutable is according to JCS 1570/a to be turned over to the Intergovernmental Committee on Refugees, with the exception of Jewish materials which are being held for eventual custody by a special trustee. No provisions have been made for art works acquired "legitimately" by Goering, Hitler, etc., on the open market, or acquired by Nazi organizations such as the Linz Museum. It can be argued that the source of Hitler's and Goering's income makes their collections public property. In any case, what cannot be controlled under the blocking statutes may be confiscated under the Law for Liberation from National Socialism and Militarism. Sooner or later, these collections should be disposed

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~~Restitution in the Four Zones~~

of since they could easily be converted into shrines of nationalism.

13. Archives in the US Zone--The 114 archival institutions in the US Zone have with few exceptions been reinstalled in their original buildings or in temporary quarters. Effort has been made to establish an Institute for Archival Science. US Zone archivists are permitted to join the bizonal professional society, and it is hoped soon to renew publication of the *Archivalische Zeitschrift*. There are certain problems arising from the fact that archives are located in zones other than those where they originated, but in many cases such problems are only apparent--for instance, the Prussian State Archives in Marburg and Wiesbaden are actually indigenous to Hesse and should remain there.

14. Cultural Institutions--The monuments, fine arts and archives sections of the Soviet and French Military Governments are located within Education Branches and combine the restitution programs with the aggressive promotion of artistic and cultural programs representing the ideology of these Occupying Powers. The monuments, fine arts and archives section of US Military Government is located in the Restitution Branch and has concentrated upon the return of cultural property to its rightful owners. In addition to the program for returning works of art to foreign countries an intensive program within Germany has returned large amounts of displaced material to German museums, collections, libraries, etc., and has secured the protection and repair of a number of important documents. The responsibility for the care of cultural property has been in large measure returned to the Germans, although there is a shortage of trained personnel in this field. A positive artistic program by the occupying power is lacking in the US Zone, although authorization for such a program is contained in the SWNCC directive of 15 July 1947. Such a program, although utilizing the artistic achievements of the occupying power, should aim at stimulating natural and free expression in Germany.

15. Cultural Objects as War Booty--The question of whether works of art may properly be seized as war booty was fully discussed by Charles de Visscher, Judge of the International Court of Justice, in a paper entitled "Historic Monuments and Works of Art in Time of War and in the Treaties of Peace" published in the "Revue de Droit International et de Legislation Comparee 1935." This monograph sums up the historical development of current opinion, based upon the Hague Convention of 1899 and 1907 as well as other authorities, that "removal of works of art by the military command during hostilities or by the occupation, or by the victor at the close of war, is a practice that modern international law has explicitly condemned." Although Control Council Proclamation No 2 requires Germans and others to furnish such "information and documents of every kind" public and private as the Allied representatives may require, and Control Council Order No 4 requires the surrender and destruction of Nazi and militaristic literature, it is evident that these provisions do not apply to historical documents long antedating recent events. Although occupying powers are no longer bound by the Laws and Customs of War on Land during a period of *debellatio* or "complete conquest" following a victorious war,\* the usages among civilized peoples, the laws of humanity, the dictates of public conscience,\* (quoted from the Hague Convention) are still applicable and would preclude the removal of historic archives. On the other hand, the legal adviser to the Soviet Military Administration is reported (Weekly Intelligence Report of 24 May 1947) to have defined *debellatio* as occupation plus reprisal and justified expropriation, requisition without receipt and pillage by members of the Soviet Armed Forces on this ground. The evidence of looting of art works by the USSR is voluminous and convincing--a mass of such evidence was forwarded to the War Department on 2 May 1947. This evidence shows that the USSR took "booty" and "trophies" soon after the fall of Berlin, and until the western allies arrived had a regular trophy Commission. Systematic removals were made from the museums of Berlin, as well as all the best pictures from Dresden and Leipzig and other places, in many cases with reckless disregard for the safety of the objects. According to a Polish officer, all repositories east of the Oder, including those containing purely Polish material, were evacuated before the Polish government was allowed to take over. Where the looted materials were taken has been a carefully guarded secret, and knowledge

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File GERMANY RESTITUTION  
Box 84

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

Restitution in the Four Zones

of their present location has come only from chance remarks of Russian officials such as the "Dresden Wing of our museum in Moscow" and the untraceable statement that the boxes from the Berlin museums remain unpacked in the Rischkin museum. The weakest point in the US position arises from the removal of the 202 paintings from the Prussian State Museums to Washington. It is weak, of course, only because the physical removal has been greeted with suspicion in spite of the unequivocal statement by the highest US authorities that these pictures will be returned.

16. Archives in the Soviet Zone—The former Prussian State Privy Archives and the Archives of the House of Brandenburg - Prussia, stored in two mines near Magdeburg, were thrown into chaos through unskilled handling and exposed to the elements and to pillage. It has been reported that the Soviets have searched for and removed all materials connected with the history of Marxism as well as materials concerning the royal courts. Other valuable original manuscripts from this source have been offered for sale to antiquarians in Berlin. Details on the handling of archives elsewhere in the Soviet Zone are obscure.

17. The Berlin Libraries—The Prussian State Library at 8, Unter den Linden, suffered considerable damage, but is still useable. Four hundred thousand books were returned from the US Zone to the Library in April, 1946. More than 1 million additional volumes and 900 cases of incunabula and manuscripts found in the US Zone are being collected in Marburg. An unknown quantity of material has been removed by the Soviets from repositories. The University of Berlin Library was not badly damaged, and most of the books remained in place. They are now being used in connection with those of the State Library which have been returned. All are under the administration of the Magistrat, subject to the Soviet Military Administration.

18. The Prussian State Museums—The former Prussian State Museums were for the most part located in a central complex in the center of Berlin, now in the Soviet Sector. All these buildings were badly damaged, however; parts of them are useable and more could be repaired. It was Hitler's belief that evacuation of the museums would constitute cowardice and a signal that Berlin was to be abandoned. Therefore, evacuation was delayed until February and March, 1945, when as much of the best materials as possible was evacuated largely westward. Other material was stored in the basements and vaults of the museum buildings, much more in the so-called "Flakturm" or bunkers in the Tiergarten. After the fall of Berlin and before the Western Allies arrived, one of the Flakturm was burned and gutted through carelessness or wantonness, accounting for the loss of many large pictures and other objects which could not be removed. In June and July, 1945, both Flakturm and the Pergamon were emptied of all their contents by the Russians shortly before the Americans arrived. From December, 1945 to May, 1946, the Russians engaged in systematic removals of everything that remained except purely Germanic materials or materials that curators managed to hide from them. Some of this material is still hidden. Of the original 2,700,000 objects of which approximately 100,000 were first rank major works of art, approximately 351,000 objects were destroyed in Berlin and approximately 983,000 were removed by the Soviets from repositories under their control. The United States has under its control in the Wiesbaden central Collecting Point approximately 209,000 objects of the collection. Although this is only 8 per cent of the total quantitative holdings, it represents closer to 50 per cent of the actual value, since these are on the whole the finest objects in the collections. British Military Government has approximately 700,000 objects representing approximately 20 per cent of the total value of the collections, in its Collecting Point at Celle, almost completely boxed and inventoried. French holdings are negligible. The US has temporarily stored 202 of the best paintings in the National Gallery at Washington, but is committed to return these paintings to Germany. Return of material under US and British control to the museums at Berlin at the present time would result in their coming under exclusive Soviet control since under a Kommandatura decision of 27 September 1945, museums are the sole responsibility of the Kommandant.

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

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

Restitution in the Four Zones

in whose sector they are located. Furthermore, there is at the present time no adequate administrative organization under the Berlin Magistrat to take care of the material.

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November 1947

FINANCE DIVISION

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

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Entry 69A4707  
File RESTITUTION  
Box 84

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

Restitution in the Four ZonesRESTITUTION IN THE FOUR ZONESPROPOSAL

1. The following recommendations are made with respect to problems of cultural restitution:

a. Regarding replacement of unique objects, it is recommended that:

- (1) Every effort should be made to exclude from the German treaty any clause on replacement in kind of cultural objects or works of art.
- (2) Some form of reparations compensation should be allowed in lieu thereof.
- (3) In the event of failure to exclude replacement in kind, it should be strictly defined and limited.

b. Agreement should be sought in any treaty that cultural objects and works of art properly adjudicated as belonging to persons who fled from Germany by reason of persecution, with residence now established elsewhere, should be permitted to be exported freely, except that objects which were placed upon the list of "National Treasures" before 1933, or may be placed upon such lists by the duly constituted committee of experts under the supervision of the Occupying Powers, may not be so exported, but must, if sold, be disposed of within Germany.

c. With respect to disposition of ownerless cultural objects it is recommended:

- (1) That all possible restitutable material, whether subject to internal or external restitution, be restituted before any other disposition is considered.
- (2) That unidentifiable or heirless Jewish material be assigned to a trustee representing all factions and groups of World Jewry and acceptable to all occupying powers.
- (3) That non-Jewish, unidentifiable material be turned over to a successor organization for the benefit of all persecutees (ICCR or other).
- (4) That the material acquired by important Nazi collectors on the open market, without suspicion of loot or duress, and for which an adequate purchase price was paid, be turned over to IRO or a similar organization for disposal and sale for the benefit of all persecutees.

d. It is recommended that it be agreed by the Occupying Powers and included in any treaty that all archives will be restored to their proper places and that the integrity of collections of archives be recognized and guaranteed.

As a corollary, such material should not be used for replacement in kind.

e. It is recommended that the treaty provide for a uniform treatment of cultural institutions of all kinds in all parts of Germany. In the event of

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FINANCE DIVISION

November 1947

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

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

**Restitution in the Four Zones**

a partition of Germany, it is recommended that means be provided for a positive implementation of our state aims.

f. It is recommended that the US make every effort to bring the use of cultural objects as war booty by the USSR into the open, express its indignation at the violation of the principles of international law, and the abhorrence with which the civilized world now regards the too-long continued practice of looting the cultural heritage of defeated nations. It is further recommended that endeavor be made to include these principles in the Peace Treaties.

g. With respect to the former Prussian State Museums, the following alternate recommendations are made:

- (1) In the event of political unification of Germany, it is recommended that negotiations be entered into whereby Berlin as a Land or State and the presumed capital of the German Central Government, be entrusted with the administrative and financial responsibility, aided by the other Laender for the establishment of a truly national museum complex similar to the original organization of the former Prussian State Museums.
- (2) In the event that a separation between Eastern and Western Germany should occur, it is recommended that the British and American authorities consider an attempt to set up a museum for Western Germany in whatever place may be chosen as its capital and that the collections under the control of the British and American authorities be transferred, under the authority of Law No 46, to the Land in which such capital is located and that the Land negotiate with other Laender in Western Germany for assistance in the support of this contemplated museum for Western Germany. The materials already under Russian control would be more than sufficient for the share of the Eastern German State.

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File NETS & RES; <sup>MURKIN</sup> NAB  
Box 18

320928

## REFUGEE CLAIMS AND RESTITUTION EPISODE

Report on Territorial Claims for the Period of: 1 January 1949 to 30 April 1950  
Frankfurt/ Main, Germany

## CLAIMS PROCESSED

## NUMBER ON WHICH CLAIMS

COUNTRY	Claims received	Claims rejected/accepted	LAW/DEER	Claims filed			Process shipped	Prepared
				1	2	3		
AFGHANISTAN	94	66	16	11	14	4	5	6
ARMENIA	11	10	1	/B	14	3	11	11
ARMENIA	0	0	0	0	9	1	5	3
FRANCE	479	474	5	10	66	10	25	31
GREECE	1	1	0					
ITALY	478	445	35					
LUXEMBOURG	1	1	0					
NETHERLANDS	10	6	4					
POLAND	62	61	1					
PORTUGAL	0	0	0					
ROMANIA	0	0	0					
SPAIN	0	0	0					
SWITZERLAND	10	6	4					
TURKEY	0	0	0					
U.S.S.R.	1180	1246	66					
YUGOSLAVIA	13	14	4					
ZAMBIA	0	0	0					

T/er

LIST OF MERITIRIOUS CLAIMS ( Accepted ) to 30 April 1950

A. In Process:

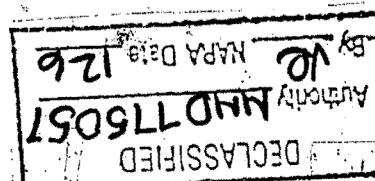
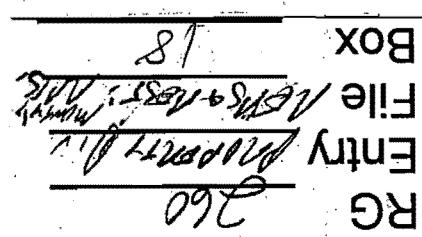
M 890-Y-H	Gold Bars
M 891-Y-H	Monetary Gold
M 892-Y-H	Monetary Gold
M 63-P-Bremen	Cultural Claim, Paintings
M 993-B-W/B	Horizontal Drilling Machine
M 994-B-W/B	Drilling Machine
M 995-B-W/B	Horizontal Drilling Machine
M 800-B-B	Lathe
M 704-B-B	Pittler Lathes
M 792-B-H	Lathe

B. Shipped, Restituted ( or compensated ):

M 1242-H-B	Sewing Machines	shipped Sept.	1949
M 706-I-B	Aluminum	" Nov.	1949
M 888-F-Bremen,	Locom's, Crane	" July & August "	
M 2-I-B	Copper Plates & Scrap	" March	1949
M 6-I-B	Zinc, Lead, Cadmium etc	" March	1949
M 7-I-B	Copper, Zinc, Magnesium	" March	1949
M 13-B-H	Mirror, Zeiss Telescope	" April	1949
M 26-B-Bremen,	Radium	" Febr.	1949
M 27-F-Bremen,	Radium	" Febr.	1949
M 28-I-Bremen,	Radium	" Febr.	1949
M 41-P-H	Coins & Metal Boxes	" March	1949
M 42-Y-H	Gold, Jewelry, Stones	" March	1949
M 353-H-H	Cultural Claim, Paintings	" May	1949
M 434-A-B	" " "	" May	1949
M 705-Y-B	Cultural Claims, see schedule	June	1949
M 436-I-B	Copper, Lead	shipped May	1949
M 851-F-B	Cultural-Books	" June	1949
* M 727-I-Bremen,	"	" Dec.	1949
* M 710-I-H	"	" Nov.	1949
* M 709-I-B	Horizontal Boring Machine	" Febr.	1950
* M 982-H-B	Railway Equipment(Rails)	" Febr.	1950
* M 1246-H-B	Sewing Machines	" Febr.	1950
* M 990-B-B	Band Saw	restit. April	1950
* M 991-B-B	Band Saw	" April	1950
* M 998-B-B	Horizontal Boring Mill	" April	1950

\* Claims previously rejected, accepted and processed under exceptional circumstances.

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M 984-B-A/B  
M 985-B-A/B  
M 986-B-A/B  
M 987-B-A/B  
M 988-B-A/H  
M 989-B-A/H  
M 990-B-A/B

DEPARTMENT OF DEFENSE  
COMPTON COTTON CORPORATION  
YOUNGSTAD COTTON  
COTTON REELS

V. IN PROCESS

LIST OF MERITORIOUS CLAIMS ( cont'd ) as of JULY 1960

LIST OF MERITORIOUS CLAIMS ( cont'd ) Page 2 of 2 Pages

C. Dropped:

M 983-A-B  
M 758-C-H  
\* M 725-I-Bremen  
\* M 708-I-B  
\* M 716-I-B  
\* M 717-I-B  
\* M 718-I-B  
\* M 711-I-H  
\* M 712-I-H  
\* M 713-I-H  
\* M 714-I-W/B  
\* M 715-I-W/B  
\* M 732-I-W/B  
\* M 733-I-W/B  
\* M 734-I-W/B  
\* M 735-I-W/B  
\* M 736-I-W/B  
\* M 737-I-W/B  
\* M 1072-I-Bremen  
\* M 1074-I-H  
\* M 1070-I-B  
\* M 1071-I-B  
\* M 1073-I-B  
\* M 1063-I-W/B  
\* M 1075-I-W/B  
\* M 1080-I-W/B  
\* M 992-B-B  
\* M 996-B-B  
\* M 997-B-B  
\* M 783-B-B  
\* M 793-B-Bremen

\* Claims previously rejected, accepted and processed under exceptional circumstances.

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ENTRY NUMBER 011  
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BOX

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ANY - New  
Engineering

OF THE UNITED STATES  
OF AMERICA

DEC 1 1947

REBUSES

CIRCULAR AIRGRAM

FOR ACTION  
ACTION TAKEN

UNRESTRICTED

FOR INFORMATION

AMB

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ECON

CONS

Nov. 25, 1947  
2.00 p.m.

TO ALL AMERICAN DIPLOMATIC OFFICERS

Note # 1251 Dec 8  
to F.O. file

Please inform the Government to which you are accredited for wide dissemination to its nationals of the following information which represents a condensation of an announcement made in Berlin regarding the promulgation of a law providing for the return of property seized in Germany under duress to the rightful owners.

On November 10, 1947, the Office of Military Government in Germany (U.S.) promulgated Military Government Law No. 59, an internal restitution law providing for the restitution of identifiable property wrongfully taken from the owners during the period from January 30, 1933 to May 8, 1945 through transactions consummated under duress because of race, religion, nationality, ideology, and political opposition to national socialism. This law applies to all identifiable property located in the American Zone including Bremen but excluding the American sector of Berlin. It is anticipated that future legislation will provide for restitution not covered by this legislation. All claimants under this law, whether located in Germany or abroad must file claims with the Central Filing Agency (Zentralanmeldeamt) established at Bad Nauheim in the American Zone in Germany. Detailed information concerning the exact form in which claims should be drawn up and filed is given in regulation no. 1 issued pursuant to the restitution law.

This legislation is being implemented by German restitution agencies which will conduct preliminary investigations including an examination of matters of public record. In disputed cases arbitration will be rendered by the restitution chamber, a branch of the ordinary German courts, composed of a judge and two other persons who are legally qualified to be judges. Since the law will be administered by German officials, the German version has been made the official text and claims, if convenient to the claimant, should be filed in German.

Upon restitution of the property, the consideration received by the persecutee at the time of the wrongful transfer must be returned by the claimant to the restitutor in kind, if possible; thus if dollars, pounds, or francs were received, the same kind of exchange must be returned. Property recovered under the restitution law will be subject to the same laws and regulations as other property of the same category; for example property owned by the absentee owners will remain blocked and may be removed from Germany only pursuant to the usual policies governing such matters.

Amounts

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BOX

FILE

ENTRY

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2:00 PM

Amounts due claimants will be paid in marks and no remittance thereof outside Germany or conversion into other currency will be possible until foreign exchange is generally available for such purposes.

Claims for restitution under this law must be filed with the Central Filing Agency at Bad Nauheim, Germany on or before Dec 31 1948.

The complete text of the announcement of this law including regulations 1 and 2 issued pursuant thereto are being forwarded by despatch along with the copy of the law in English to all Missions abroad. If future information is needed, claimants should be instructed to communicate directly with either the Central Filing Agency in Bad Nauheim or the Property Control Branch of the Finance Division of U. S. Military Government in Berlin.

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By SR NARA Date 1-8-00

RG 260  
Entry Project  
File MISC. RESTITUTION  
Box 24AH  
RESTSUMMARY OF THE RESTITUTION PROGRAM  
IN THE US OCCUPIED ZONE OF GERMANYSECTION I - Policy

ORIGIN

External restitution as carried out in the US Zone of Germany had its basis in the European Advisory Committee discussions in London on 5 January 1943, when delegates from 13 governments, including the United States, United Kingdom, U.S.S.R., and the French National Committee, issued a declaration that they

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

US  
DIRECTIVE

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

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

INITIAL  
INTERIM  
POLICY

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

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By SR NARA Date 1-8-00

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QUADRIPARTITE  
POLICY  
DECISIONS

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

Quadrupartite agreement as reached in COPC/P(46)143 provided that:

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

US POLICY  
ON PARTICIPATING NATIONS

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

OMGUS  
ORGANIZATION

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

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

"The question of restitution of property removed by the Germans from Allied countries must be examined, in all cases, in light of the Declaration of January 5th, 1946.

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 File MISC. RESTITUTION  
 Box 24

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

DEFINITION  
OF THE TERM  
"RESTITUTION"

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

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

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

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

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

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

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

**NEGOTIATIONS  
OF  
SUBSTITUTIONS**

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

**IWT CRATE  
AND ROLLING  
STOCK**

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

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

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

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Authority NND 775119

By SR NARA Date 1-8-00

RG 260Entry ProtocolFile Misc. RestitutionBox 24RESTITUTION  
TO BALTIC  
COUNTRIESCAPTURED  
ENEMY  
MATERIALRESTITUTION  
TO  
HUNGARY

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

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

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

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By SR NARA Date 1-8-00

RG 260

Entry PROGRESS

File MISC. RESTITUTION

Box 24

SECTION II - Operations

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

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

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

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By SR NARA Date 1-8-00

RG 260  
Entry PROBLEMS  
File MISC. RESTITUTION  
Box 24

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

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

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

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

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

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RG 260Entry PROTOKOLIFile Misc. RestitutionBox 84TERMINATION  
DATES FOR THE  
FILING OF CLAIMS

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

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

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

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

PROPERTY  
RESTITUTED

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

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

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By SR NARA Date 1-8-00

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Entry Miscellaneous  
File MISC. RESTITUTION  
Box 24

<u>Country</u>	<u>Main Categories of Property Restituted</u>	<u>RM Value (1938)</u>
Austria	industrial equipment, oils and resin, motor vehicles	4,228,422
Belgium	radium, industrial equipment, barges, industrial diamonds, non-ferrous metals	11,258,789
Czechoslovakia	industrial equipment, personal effects and jewelry, motor vehicles	23,773,374
Denmark	industrial equipment	602,044
France	industrial equipment, horses, motor vehicles, wines, personal effects and furniture	58,447,538
Greece	miscellaneous	42,782
Hungary	gold, silver, horses, bridge building equipment, hospital equipment, machinery, motor vehicles	126,285,723
Italy	industrial equipment, non-ferrous metals, streetcars, silver	10,915,674
Luxembourg	industrial equipment, personal effects	373,475
Netherlands	diamonds, barges, industrial equipment	42,445,817
Norway	furs, non-ferrous metals, industrial equipment	1,579,703
Poland	industrial equipment, horses	10,909,112
Romania	barges, motor vehicles	1,066,407
U.S.S.R.	agricultural equipment, vehicles, scrap	313,940
Yugoslavia	non-ferrous metals, barges, industrial equipment	15,538,503

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RG 260Entry PROVOSTFile MISC. RESTITUTIONBox 24PROPERTY  
RESTITUTED

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

### SECTION III - Completion of the Restitution Program

NON-CULTURAL. Pursuant to Washington draft directive of May 1943 stating as its policy the bringing of the entire restitution program to a conclusion as soon as feasible, preparations were made and the necessary steps were taken, in the latter part of June 1948 to terminate the processing of non-cultural claims by 31 December 1948, and on 11 August 1948 an official announcement was made to the chiefs of the foreign Restitution Missions in Karlsruhe that it was intended to complete, with the possible exception of a small number of meritorious claims, both investigations and shipments of restitutable items by 31 December 1948.

Out of a total of 20,598 claims received (each claim comprising from one to as many as thousands of different items) 9,876 claims had been disposed of, either by restitution or rejection, as of 15 June 1948, i.e. during a period of approximately 2½ years. This left a work-load of 10,722 claims not only to be processed but also, as far as found restitutable, to be shipped within a period of six months.

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

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

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

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Entry

PROJECT

File

MISC. RESTITUTION

Box

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ual radios, cannibalized automobiles, pieces of furniture and clothing, etc.). By 30 June 1948, the total outstanding claims were thus reduced by 1285, including 194 claims which were dropped during that period for non-location and 60 claims which were satisfied. By 31 December 1948, essentially all of the claims which had been filed prior to 30 April 1948 had been processed, and decisions made as to whether the claimed properties were to be restituted or whether the claim was to be dropped, and shipments of these properties were virtually complete except for deliveries to France and Czechoslovakia. Final deliveries were completed by 1 June 1949.

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

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

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

MERITORIOUS CLAIMS

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By SR NARA Date 1-8-00

RG 360  
Entry Protest  
File MISC. RESTITUTION  
Box 24SUMMARY OF THE RESTITUTION PROGRAM  
IN THE US OCCUPIED ZONE OF GERMANYSECTION 1 - Policy

ORIGIN

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

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

US  
DIRECTIVE

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

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

INITIAL  
IMPERIAL  
POLICY

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

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QUADRIPARTITE  
POLICY  
DECISIONS

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

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

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

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

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

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

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

US POLICY  
ON PARTICIPATING NATIONSOMCUS  
ORGANIZATION

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Entry PROMOTEFile MISC. RESTITUTION

Box 24

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

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

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

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

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

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

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

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By SR NARA Date 1-8-00

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Entry PROJNMT

File MISC. RESTITUTION

Box 24

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

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

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

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

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

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RG 260Entry PROJONIFile MISC. RESTITUTIONBox 24RESTITUTION  
TO BALTIC  
COUNTRIESCAPTURED  
ENEMY  
MATERIALRESTITUTION  
TO HUNGARY

Concerning Soviet claims for property removed from the territory of the formerly sovereign states of Latvia, Lithuania and Estonia, the Soviet Military Administration in Karlsborst had been advised as far back as March 1947 that the United States do no recognize the incorporation of these countries into the Soviet Union and that, although Soviet claims would be accepted for such property, the US Government reserved its decisions to the ultimate disposition thereof. The few claims, falling into this category, which were submitted by the Soviet Union have been dropped.

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Authority NND 77519

By SR NARA Date 1-8-00

RG 260Entry PROTOKOLIFile MISC. RESTITUTIONBox 24SECTION II - Operations

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

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

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RG 260

Entry 100001

File MISC. AERIUMA

Box 24

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

PROBLEMS  
OF USFAA

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

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

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

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

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Authority NND 77519

By SR NARA Date 1-8-00

RG 260

Entry PROLOGUE

File MISC. RESTITUTION

Box 24

TERMINATION  
DATES FOR THE  
FILING OF CLAIMS

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

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

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

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

PROPERTY  
RESTITUTED

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

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

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RG 260  
Entry Promote  
File MISC. RESTITUTION  
Box 34

<u>Country</u>	<u>Main Categories of Property Restituted</u>	<u>FM Value (1938)</u>
Austria	industrial equipment, oils and resin, motor vehicles	4,228,422
Belgium	radium, industrial equipment, barges, industrial diamonds, non-ferrous metals	11,258,789
Czechoslovakia	industrial equipment, personal effects and jewelry, motor vehicles	23,773,374
Denmark	industrial equipment	602,044
France	industrial equipment, horses, motor vehicles, wines, personal effects and furniture	58,447,538
Greece	miscellaneous	42,782
Hungary	gold, silver, horses, bridge building equipment, hospital equipment, machinery, motor vehicles	126,285,723
Italy	industrial equipment, non-ferrous metals, streetcars, silver	10,915,674
Luxembourg	industrial equipment, personal effects	373,475
Netherlands	diamonds, barges, industrial equipment	42,445,817
Norway	furs, non-ferrous metals, industrial equipment	1,579,700
Poland	industrial equipment, horses	10,909,112
Roumania	barges, motor vehicles	1,066,407
U.S.S.R.	agricultural equipment, vehicles, scrap	313,940
Yugoslavia	non-ferrous metals, barges, industrial equipment	15,538,503

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Authority NNO 775119

By SR NARA Date 1-8-00

RG 260

Entry PROTEST

File MISC. RESTITUTION

Box 24

PROPERTY  
RESTITUTED

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

### SECTION III - Completion of the Restitution Program

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

Out of a total of 20,598 claims received (each claim comprising from one to as many as thousands of different items) 9,876 claims had been disposed of, either by restitution or rejection, as of 15 June 1948, i.e. during a period of approximately 2½ years. This left a work-load of 10,722 claims not only to be processed but also, as far as found restitutable, to be shipped within a period of six months.

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

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

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

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Authority NND 77519  
By SR NARA Date 1-8-00RG 260Entry PROMOTIFile MISC. RestorationBox 24

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

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

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

Between 1 January 1949 and 30 June 1949 we received a total of 88 meritorious claims from Austria, Belgium, Czechoslovakia, France, Greece, Italy, Luxembourg, Netherlands, Poland and Yugoslavia and Russia. Only 17 of these claims were accepted for processing, the others having been rejected as not being of a meritorious nature. In accordance with the established procedure for the processing of these meritorious claims, the claims accepted were referred to the Land OMC concerned for investigation and appropriate action. Action, including shipping, has been completed on ten of the seventeen claims accepted. No additional claims for non-cultural properties were to be accepted after 30 June 1949, the deadline date established at governmental level. Claims for cultural properties will continue to be received however, where the circumstances justify such action.

## MERITORIOUS CLAIMS

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Authority NND 765011  
3/25/00  
By WDP NARA Date

RG 84

Entry 2531-B

File 400.B-1651.62

Box 130

OO-SFIO



AG CABLES //



## OUTGOING MESSAGE

~~RESTRICTED~~

RECD 291057A Oct 47

ATTACHMENT ONE: RESTRICTION OF PROPERTY OF MILITARY GOVERNMENT FOR GERMANY

RESTRICTED

ON THE FOLLOWING SET DOWN IN PARAGRAPH  
 ARE QUOTED THE LINE OF PROPERTY WHICH IS RESTRICTED BY LAW OR REGULATION  
 ON PRESENT STATUS OF GOVERNMENT, WHICH ARE DETERMINED BY THE GOVERNMENT  
 AND THE PLACEMENT AND POSITION OF THE INDIVIDUALS  
 WHO ARE RESPONSIBLE FOR THE RESTRICTION.  
**TO** THE CHIEF OF STAFF, US ARMY, FOR POLITICAL DIVISION  
 LINCOLN BRANCH OF SOC OF COMMISSIONERS TO THE POOR  
 FROM : CINCEUR SIGNED CLAY

REF NO: DA 516 CC-2119 EXEMPT FROM RESTRICTION OF PROPERTY  
 ESTABLISHED TO THE SUPPLY, LOGISTICS AND ECONOMIC  
 AUTHORITIES OF THE EXISTING GOVERNMENT IN BERLIN, GERMANY  
 NEWBOLD GLASS Subj: Restitution Law

It is intended to promulgate law for restitution of identifiable property, as Mil Govt Law no. 59 on 10 Nov 47 at 1500Z. We recommend release in Wash simultaneously. An English and German text of the law, the regulations and licenses, and a copy of the press release will be sent to you by courier and should reach you by 3 Nov. The press release and regulation number each contain a blank line for address of Central Filing Agency. Will cable such address as soon as location of Central Filing Agency has been determined, in any event prior to 10 Nov 47.

It is important that publicity be given to this law and implementing regulations in all countries of the world. We will make them available to all Mil Missions accredited to Allied Control Authority and Consulates accredited to Mil Govt. Please request State to transmit pertinent documents to every nation and request that each duly publicize them to its own nationals and residents. IN URGENT PERIOD OF TIME IT IS DESIRABLE THAT  
 THIS AGREEMENT BE MADE AS SOON AS POSSIBLE. THE  
 PUBLICATION OF THE DOCUMENTS IS CONSIDERED ESPECIALLY IMPORTANT TO GIVE THE WIDEST PUBLICITY IN THE US. OMGSUS cannot assume burden of printing and distribution and suggest that this be done by State or Dept of Army. Recommend that consideration be given to possibility of publication of documents in Federal Register, and utilization of private publications such as CCH, Prentiss Hall as well as publicity through interested private organizations.

Tool &amp; Pest. General

OO-SFIO

New Subj:

Jewish organizations submitted to me a Memorandum, dated 15 Oct 47, which in para 6 asks for redraft of  
 B E S T W I T T E D

CC-2119

~~RESTRICTED~~

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

10/29/47

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531-B  
File 400.B  
Box 130

EX-Sub: Your information. Made in compliance with V.S. 380-2

~~SECRET~~

CC-2119

~~RESTRICTED~~MEMORANDUM DATED 12 OCT 1947 FOR THE DEPARTMENT OF STATE  
REVIEW OF CERTAIN PROVISIONS OF THE DRAFT RESTITUTION LAW

CC-2119 MIA 2001

portion of section 3 of draft of restitution law in their possession. Please inform Jewish Organizations that careful consideration has been given to this request but no further change seems advisable at present time since the provision under discussion has been approved in principle by other Powers has been communicated to Laenderrat and with slight changes has been approved by expert Committee of Laenderrat and, in addition, we feel that adequate protection to claimants is afforded under present language. In final text, selection 3 has been divided into 2 articles which read as follows:

ARTICLE THREE ON CONFISCATION

MEAT WHICH WAS MADE BY MEASURES SO AS TO PREVENT THE PERSON WHO OWNED THE PROPERTY FROM RECOVERING IT IS TO BE PRESUMED TO HAVE BEEN MADE BY MEANS OF CONFISCATION.

"1. It shall be presumed in any favor of any claimant that the following transactions entered into between 30 Jan 1933 and 8 May 1945 constitute acts of confiscation within the meaning of article two; (Article 1) (1) (a) (i) (A)

"WHICH WERE MADE DUE TO THE POLITICAL AND IDEOLOGICAL POSITION OF THE PERSON WHO MADE THEM OR TO THE POLITICAL AND IDEOLOGICAL POSITION OF THE PERSON WHO RECEIVED THEM. ANY TRANSFER OF RELINQUISHMENT OF PROPERTY MADE DURING A PERIOD OF PERSECUTION BY ANY PERSON WHO WAS DIRECTLY EXPOSED TO PERSECUTORY MEASURES ON ANY OF THE GROUNDS SET FORTH IN ARTICLE ONE."

"2. Any transfer or relinquishment of property made by a person who belongs to a class of persons which on any of the grounds set forth in article one was to be eliminated in its entirety from the cultural and economic life of Germany by measures taken by the state or the NSDAP.

"3. In the absence of other factors proving an act of confiscation within the meaning of article two, the presumptions set forth in para 1 may be rebutted by showing that the transferor was paid a fair purchase price. Such evidence by itself shall not, however, rebut the presumptions if the transferor was denied the free right of disposal of the purchase price on any of the grounds set forth in article 1."

~~SECRET~~

"3. A fair purchase price within the meaning of this article shall mean the amount of money which a willing buyer would pay and a willing seller would take, taking into consideration, in the case of a commercial enterprise, the normal good will which such enterprise would have in the hands of a person not subject to prosecutory measures referred to in article 1."

VC CVBEE2

CC-2119

OFFICE OF WAR INFORMATION BUREAU (O.W.I.)

~~RESTRICTED~~

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By WDP NARA DateK6 84  
Entry 2531-B  
File 400.B  
Box 130

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

CC-SJIC



AG CABLES



REF NO: CC-2119

OUTGOING MESSAGE  
RESTRICTED

"Article four.

## Power of Avoidance.

"1. Any transaction entered into by a person belonging to a class referred to in para 1 sub para B of article three within the period from 15 Sept 1935 (the date of the first Nuremberg Laws) to 8 May 1945 may, because of the duress imposed upon such a class, be avoided by a claimant where such transaction involved the transfer or relinquishment of any property unless:

A. The transaction as such and with its essential terms would have taken place even in the absence of National Socialism; or

B. The transferee protected the property interests of the claimant (article seven) or his predecessor in interest in an unusual manner and with substantial success, for example, by helping him in transferring his assets abroad or through similar assistance.

C. Any conduct of the claimant or his predecessor in interest which would be charged against him under article one.

D. In determining under para one sub para A whether the transaction would have taken place even the absence of National Socialism, the fact that the transferor himself offered to sell the property to the transferee, or the transferor received a fair purchase price (see article 3 para 3) the free right of disposal of which was not denied him on any of the grounds set forth in article one, shall be considered by the restitution authority together with all other facts, but neither fact, either singly or in conjunction with the other, shall be sufficient to show that the transaction would have taken place even in the absence of National Socialism.

E. Similarly neither of these facts, either singly or in conjunction with the other, shall be sufficient to show that the claimant is estopped from exercising the power of avoidance by reason of his own previous conduct or that of his predecessor in interest.

F. In the case of a voided transaction, the claimant or his predecessor in interest shall be entitled to the property transferred or relinquished pursuant to the voided transaction shall for the purposes of this law be deemed to be confiscated property.

CC-2119

RESTRICTED

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

DECLASSIFIED  
Authority NND 765011  
By WDP NARA Date 3/25/00

KG 84  
Entry 2531-B  
File 400B  
Box 130

Excluded from automatic handling in compliance with VR 380-2

~~REF ID: A65719~~

BY LOGO OF THE JEWISH RESTITUTION COMMISSION FOR THE  
PURPOSE OF CLAIMING PROPERTY SUBJECT TO RESTITUTION  
SUCH PROPERTY AS IT MAY BE HELD IN TRUST FOR THE  
EXERCISE OF THE POWER OF RESTRICTED AS OF THE DATE OF  
THE DEATH OF THE PERSON FOR WHOM IT WAS HELD OR  
AS OF THE DATE OF THE DEATH OF THE PERSON FOR WHOM IT WAS HELD.

REF NO: CC-2119

MAILING ADDRESS: 10 MURKIN

CASE NUMBER: 5. The filling of a claim for restitution shall, whether or not it is specifically stated, be deemed to be an exercise of the right of avoidance on behalf of the person entitled to exercise such right."

REASON: REAG TEL TO  
[REDACTED] New subject: Restitution Law provides that successor organizations may be appointed by Military Government for the purpose of claiming heirless and unclaimed property subject to restitution. To that end the Jewish restitution commission has been incorporated under membership corporation law of state of New York. Reference is made to certificate of incorporation and bylaws of Jewish Restitution Commission, which we understand have been filed with the State Dept. By a letter, dated 17 Oct 47, Jewish Restitution Commission requests that it be appointed successor organization for all Jewish property pursuant to the pertinent provisions of restitution law. Before considering this request we ask to be advised whether you and State consider this organization to be appropriate one for designation as a successor organization under this law.

ORIGINATOR : LEGAL ADD: 10 MURKIN AUTH: A.J. ROCKWELL

INFO: CONT OFF  
FIRM: JEWISH RESTITUTION COMMISSION  
ECON: [REDACTED]  
CA: [REDACTED]  
PILO: [REDACTED]  
POL: [REDACTED]  
ADMIN: [REDACTED]  
LEGAL: [REDACTED]  
TAXES: [REDACTED]  
PERIODIC: [REDACTED]  
SALARIES: [REDACTED]

SEE ALSO: [REDACTED]

~~REF ID: A65719~~

ONE GIVING SERVICE

CC-2119

29 Oct 47

RE/ms

OFFICE OF WILHELM GOERKEN FOR GERMANY (N 2)  
RESTRICTED

320958

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Authority NND 765011  
By WDP NARA Date 3/25/00RGC 84  
Entry 2531-B  
File 400B-1051.60  
Box 130

File

Berlin, August 18, 1947

~~SECRET~~

No. 10723

SUBJECT: RESTITUTION AND THE GERMAN MINIMUM ECONOMY

The Honorable  
 The Secretary of State  
 Washington

Sir:

I have the honor to refer to the unanswered telegram CC-9627 from GMGUS to AGWAR, dated June 23 concerning the requirements of the German minimum economy in determining the eligibility for restitution from the American Zone of Germany and to bring to the Department's attention the following information.

The quadripartite agreed procedure for restitution states that "restitution will be limited, in the first instance, to identifiable goods which existed at the time of occupation of the country concerned and which have been taken by the enemy by force from the territory of the country. Also falling under the measures of restitution are identifiable goods produced during the period of occupation and which have been obtained by force. All other property removed by the enemy is eligible for restitution to the extent consistent with reparations."

In a directive dated June 19, 1946, interpreting "consistent with reparations", the Deputy Military Governor instructed the Restitutions Branch that "restitution will not be made of articles removed other than by force, where such articles are necessary for the German minimum economy."

As a result of this interpretation, all clearances for restitution from the American Zone must be accompanied by a statement as to whether or not force was employed in the removal of the goods covered by the claim and no restitution will be made in the absence of such statement. If the goods existed in the claimant nation at the time of occupation, it is presumed that force was employed and their removal and restitution will be made. Should the articles claimed have been produced during the period of occupation and the statement asserts that they were removed by force, evidence or official certification of details of acquisition must be submitted tending to substantiate the claims of force before restitution will be made. Where

force is not

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DECLASSIFIED  
 Authority NND 765011  
 By WDP NARA Date 3/25/00

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 Entry 2531-B  
 File 400.B  
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- 2 -

force is not asserted to have been employed or the question of force has been resolved adversely to the claimant country, restitution will be made nonetheless unless the Economics Division and/or other interested divisions state that the items concerned are essential to the German minimum economy.

During the months of May, June and the first half of July, the following items for which there is evidence that they were removed from countries outside of Germany, have been released to the German economy upon certification by the Economics Division:

<u>TIME PERIOD</u>	<u>ITEMS</u>	<u>COUNTRIES FROM WHICH REMOVED</u>
1st half May	28,000 kg. calcinated potash 4,000 used rubber tires 3,323 kg. pharmaceutical oils 326 tons corundum 82,680 kg. hydroxides 553 leather hides 4,669 m. cloth 30,000 m. wool	France France Poland Italy Czechoslovakia ? France ?
2nd half May	873 kg. iron-silicon-titanium alloy 12,079 kg. cotton thread 4,100 kg. cotton texture 1,080 kg. tobacco + Holland + France 326,835 kg. resin All supplies of tobacco - blanket authorization	Austria Austria Austria France Greece -
1st half June	79 tons of asbestos	Czechoslovakia
2nd half June	None	
1st half July	8,570 kg. ceresin wax 1,507,369.7 kg. aluminum & aluminum alloys	Austria Italy

It should be noted that some of the above property was removed from former ex-enemy nations and that restitution directives to Military Government differ in the treatment of properties removed from such nations as compared to properties removed from Allied nations.

The above listed properties include only raw materials and generally consumable items. In the case of requests for the release of capital equipment to satisfy the requirements of the German minimum economy, restitution of the property in question is postponed but the equipment is not released. Presumably, this practice will be continued pending the clarification of the problem under reference.

For the

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Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
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- 3 -

For the Department's information, the interpretation of this aspect of restitution by American Military Government differs substantially from that of the British Military Government. Whereas the former applies the criterion of minimum economy as explained above, the latter applies a criterion termed normal commercial transactions. The "all other property removed by the enemy" is interpreted to mean property which was removed under abnormal circumstances indicating if not actual force, at least undue influence or perhaps fear of force. Properties falling in this category are subject to restitution regardless of the needs of the German economy. If on the other hand property came into Germany through normal commercial channels, such property is not eligible for restitution, again regardless of whether or not the minimum economy may or may not need the property in question. An example of a normal commercial transaction might be a German firm receiving some product from a French firm with which it had had similar business relationships prior to the war.

In view of the dissatisfaction expressed by numerous restitutions missions over our employment of the minimum economy criterion, and the substantial amounts and values of the property involved and the further fact that the two occupying powers administering the bi-zonal area follow different standards for determining property subject to restitution, it is believed desirable to have the Department's views on this problem.

For the Department's confidential information, I am informed that the French Foreign Office is contemplating raising this question formally in the hope of getting American Military Government to follow a procedure similar to that followed by British Military Government.

Respectfully yours,

Robert Murphy

Copy for CG - Mr. Riddleberger

In original and copied to the Department

WCharlson:ad

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Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531-B  
File 400.B-1051.6a  
Box 130

1 Pol Rest 30 Attn: Mr. Adams  
Aff. Br. Oct  
ED 47

Attached as requested by you this date,  
a review of Germany-wide restitution progress  
as of 31 July 1947. It was prepared by this  
Branch on the basis of the most recent figures furnished the Reparations,  
Deliveries and Restitution Directorate by each of the four zones.

FOR THE CHIEF, RESTITUTION BRANCH:

Incl:a/s  
Telephone 43634  
Rm 1042, Econ Bldg.

CECIL L. FISHER  
U.S.Civilian  
Deliveries Off.

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Authority NND 765011  
3/25/00  
By WDP NARA Date

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Entry 2531-B

File 400B - 1081.60N.

Box 130

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



AG CABLES 1/3

## OUTGOING MESSAGE



SECRET

RECD 231518 June 47

DRH  
LVS

ROUTINE

SECRET

dep to Dept  
8/18/47 MC/M

TO : AGWAR FOR WDSCA ES

INFO : EUCOM

FROM : OMGUS SIGNED KEATING

REF NO : CC-9627

POLITICAL DIVISION

JUN 24 1947

JUN 24 1947

Rearmed WX-80485. General Clay answered WX-95481 in considerable detail in his cable of 15 April 1947 to AGWAR personal for Note which was sent from Heidelberg from CINCEUR signed Clay. Reference Number 14-1. Text follows:

"I am at loss as to why our position is difficult to understand as it has been consistent since our arrival here. CONL/P (46) 3 did not provide for restitution to United Nations of all property regardless of use of force in removal. We are in a better position here on the ground to interpret Allied Control Authority decisions in the light of our participation in the meetings which led to those decisions. We have reported repeatedly that under the definition of the term 'restitution' agreed at ACA, it is limited in the first instance to identifiable goods which existed at time of occupation and have been taken by force. Also falling under restitution are identifiable goods produced during occupation and taken by force. In making this definition, the ACA then agreed that all other property removed by the enemy is eligible for restitution to the extent consistent with reparations."

"It is clear that this definition contemplated a distinction between items clearly removed by force and others produced under contract during the period of occupation. During the discussions of reparations and restitution, I pointed out repeatedly that we could not grant reparations to a level which would provide only a minimum economy, and then on top of the reparations program make restitution to unknown extent. This

CC-9627

June 23/47

June 25  
SECRET  
SECRET

Copy No. 36

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

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Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531-B  
File 400.B  
Box 130~~SECRET~~

REF NO: CC-9627

- 2 -

led to the adoption of the phrase 'consistent with reparations'. It has always been my position under this phrase that we would examine all claims for restitution and that we would return all items whether or not removed by force provided it did not reduce the German economy below the planned level, the latter not being consistent with reparations. I still take the position that if we are to make restitution along the lines in your cable we must modify the reparations program. If, as is being discussed at Moscow, we do revise the level of industry, then of course consideration can be given to restitution regardless of how the items in question reached Germany.

"I expect to continue to require proof as to date of removal. With respect to the establishment of a terminated date, I again urge that we not be stopped from our efforts to this end. It is very difficult for me to understand our policy in matters of this sort. We have stated repeatedly that we want to have Germany a democratic nation. Nevertheless we proceed unilaterally with irritating measures which we continue indefinitely. If we are to win and hold Germany for western civilization, we must bring such measures to an end sometime. The American Zone has been safely held by democratic parties up to date. All of my recent intelligence reports point to a rapid penetration of Communism. If Communism does win western Germany, it is obvious our policies in Germany have failed and those of us responsible for the Govt of Germany will be completely condemned. In spite of this, we do not get the support in small matters which are all important. I refer to the recent law on internal restitution which, while sound in principle, is unilateral in application. Our measures in restitution are at least as vigorous as those of our colleagues and I am not willing to give the French and others a hunt and seizure right which is what the French want. I am sure the results would be disastrous. I doubt if any United Nation can give specific examples of legitimate claims which have been proved. However, our procedure does serve as a desirable brake on unlimited and unproven claims. I am not exaggerating the penetration and growth of Communism in western Germany. It can win western Germany if we continue to play our cards the way we are."

WX-80485 is AGC IN 61561  
WX-95481 is AGC IN 54213

ORIGINATOR : ECON

AUTH: JAMES E KING, JR

INFORMATION : C/S

ECON AD EUCLM.

INTELL

LEGAL

FIN AD EUCLM

FIN

POL AD EUCLM

POL AFF

CONT OFF

CC-9627

23 June 47

NRA/ees

~~SECRET~~

320964

DECLASSIFIED  
Authority NND 765011  
By WDP NARA Date 3/25/00

RG 84  
Entry 2531-B  
File 400B - Ross Gen.  
Box 311

105

**CONFIDENTIAL**

28 November 1948

MEMORANDUM TO: Mr. James S. Gantzenbein

*attached*

Reference/legation cable regarding protests submitted by certain Restitution Missions, suggest that the reply be substantially as follows:

1. The Chiefs of the Restitution Missions referred to in your cable submitted a request to the U.S. Zone Commander as follows:

- "(1) Shipments of all restitutable properties without rigorous enforcement which appears to them arbitrary dates should be effected.
- "(2) That claims dropped for unsufficient reasons should be reinvestigated eventually by own experts.
- "(3) That meritorious and other claims on hidden material (undeclared material) should be accepted.
- "(4) That a policy should be laid down on looted properties of foreign nations for the period of transition until such time that a peace treaty will be signed (including a clause safeguarding restitution rights)."

2. The reply to their protests ~~was~~ that we do not consider it necessary to make any revision in our present policy and procedures, and that the program will be continued without change.

3. As a matter of information, we have completed investigation of all claims submitted by the nations which made the protest and we expect to complete deliveries of their properties by the end of this year. We will of course continue to receive claims from all nations of meritorious nature where it can be definitely established that unusual circumstances are involved.

PHILLIPS HAWKINS  
Director

**CONFIDENTIAL**

320965

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/00

RG 84

Entry 2531-B

File 400B

Box 53

NEST

JUL 24 1946

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

AG CABLE CONTROL

## OUTGOING MESSAGE

S E C R E T

~~SECRET~~

P R I V A T E

~~HQ~~  
~~7-11-5~~  
~~WON~~

TO : AGWAR FOR WDSCA

INFO : USFA, USFET

FROM : OMGUS SIGNED CLAY

REF NO : CC-9626

TOO: 241410B JULY 46/END

POLITICAL DIVISION

JUL 24 1946

Reurad WX-94368. - AGC - 32 302

Our comments on States proposed reply follow.

States Point One and Point Three in part:  
 Our comment Part 1 ourad CC-6925 referred only to ownerless property originating outside Germany and therefore we do not agree "General principle distrib", because our quadripartite agreements forbid us to restitute to private owners as suggested by Jewish Organizations in urad WX-94368 nor can we turn over ownerless property to organizations without agreement to that effect. We deal only with governments as stated Part 2 ourad CC-6925 we are not free effect unilateral changes. If Jewish Organizations mentioned Part 1 urad WX-94368 fit test such organizations stated Part 1 ourad CC-6925, believe we can make quadripartite suggestion to turn over ownerless property to organizations though still believe this difficult to get agreement on. In this connection we are studying just received letter 5 June 1946 to Hilldring from Commission European Jewish Cultural Reconstruction.

States Point Two: Based on OMGUS Property Disposition Board recommendations, Laenderrat will probably shortly approve plan to restitute to owners or successors identifiable property originating in Germany and located in US Zone. Such of this property as was Jewish and is ownerless might be turned over to some Jewish group.

States Point Three: So far as property discussed on ad hoc basis is concerned, believe same difficulties present as in our proposed quadripartite suggestion, but can certainly recommend this should quadripartite suggestion fail.

CC-9626

S E C R E T

~~SECRET~~

Copy No. 27

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

320966

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531-B  
File 400B  
Box 53

CC-9626

~~SECRET~~

- 2 -

Re-request for freezing Offenbach and similar depots: There is no depot similar to Offenbach. Present contents of Offenbach about 1,000,000 items of which about 500,000 can be described as possibly ownerless. This 500,000 is probably about 85% Jewish and 15% doubtful. All this 500,000 has been frozen and will continue to be so for time being. Meanwhile we are still prepared to institute quadripartite proposal to turn over this and other ownerless property brought into Germany and otherwise subject to restitution (that is "External restitution") to appropriate organizations and, as stated, we are studying proposal made to Hilldring.

W-86514 is AGC IN 26855

ORIGINATOR : ECON

AUTH: STEPHEN A. PARK,  
COLONEL

INFORMATION :  
 O/SS  
 FIN  
 POL AFF  
 IA&C  
 LEGAL  
 AF  
 CONT OFF  
 CIV ADMIN  
 TRANS  
 AG RECORDS

CC-9626

24 July 46

1500B

JDL/ehd

~~SECRET~~

320967

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/90RG 84  
Entry 2531K 20240  
File: RESTITUTION-Germany  
Box 53N651  
OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

AG CABLES 3/3

INCOMING MESSAGE  
**RESTRICTED**

TOO: 16 NOV 46-N 260/wea

ROUTINE

FROM : AGWAR FROM JCS

TO : USFET FOR McNARNEY  
USPA FOR CLARK

INFO : OMGUS

RELATED BY : USFET-G-5

REF NO : WX-85682

POLITICAL DIVISION

NOV 21 1948

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

1. You will make available on demand to duly accredited representative of Intergovernmental Committee on Refugees all valuable personal property which represents religious victims of Nazi Government or its satellite governments or confiscated by USFET or by local authorities acting under direction or control of US Forces, subject to following conditions:

a. That property cannot be restituted to government pursuant to WX-85965, Nov 45 and WX-99226 March 46, as amended and modified by Control Council actions, because determination of national origin is impractical.

b. That property cannot be restored to lawful owners under laws in force in place where presently found either because lawful owner has died or ceased to exist without legal successor or because indetermination individual ownership is impractical.

c. That ownership interests in real property located in Germany and of German currency or instruments of exchange payable in German currency will be excepted.

**RESTRICTED**

41877 Exempt from paraphrase. Handle in compliance with AR 380-5.

320968

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531K AOL 90  
File: 4400R  
Box 53

REF NO: WX-85682

~~RESTRICTED~~~~ROUTINE~~

- 2 -

- d. That Jewish books, manuscripts, and literature disposed of pursuant to separate directive.
- e. That detailed inventory and tentative agreed valuation will be made of property subject to transfer to IGCR here under, and transfer will be made upon signing of joint inventory which shall be made part of receipt.
2. You will permit property transferred here under to be removed from Germany or Austria or to be sold therin if payment can be made outside Germany or Austria in acceptable foreign currency, notwithstanding any laws for control of foreign exchange, to and that maximum value be obtained there from By IGCR
3. You will seek to obtain Control Council agreement to disposition pursuant to terms of this directive of any property disposition of which is reserved to Control Council. Even prior to such agreement you will nevertheless execute directive and you may advise other representatives of control authority that you are doing so pursuant to obligation assumed by your government in subscribing to Paris Agreement on Reparations.
4. Expression "valuable personal property" as used in paragraph 1 of this directive shall be interpreted to exclude ordinary items of furniture, clothing, and other personal property of small intrinsic value and to include any of identification pursuant to paragraph 1, subparagraphs A and B, of identification pursuant to paragraph 1, subparagraphs A and B, of this directive regard shall be had to extent of commingling with other property and difficulty and expense of determination of ownership in comparison with value of property. All property as defined herein, will be considered as falling within this directive and will be made available to IGCR unless available evidence clearly is to contrary. You will establish such administrative machinery as may be necessary to execute this directive promptly and effectively.

320969

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2834K POLAD GERMANY  
File 4400B RESTRICTION L0001  
Box 53

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



REF NO. WX-85682

AG CABLES

INCOMING MESSAGE  
**RESTRICTED**

R E S T R I C T E D

- 3 -

WX-85965, AGC-IN-15174, 3 Dec 45, Info  
WX-99226, AGC-IN-22212, 8 Mar 46, Info

## INFORMATION:

O/SS-C/S  
 IA & C  
 ECON  
 TRANS  
 FIN  
 POL AFF  
 LEGAL

AGC IN 41877

20 Nov 46

EM/wea

REF NO: WX-85682

R E S T R I C T E D  
**RESTRICTED**

320970

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

DECLASSIFIED	RG <u>59</u>
Authority <u>NND 760050</u>	Entry <u>European</u>
By <u>WDP</u> NARA Date <u>3/22/00</u>	File <u>Liaison Sub 4547</u>
	Box <u>20</u>

STATELESS PERSONS

	<u>Page</u>
Memo, 7-18-45, re reparations and restitution for stateless persons and suggestion that an International Board of Trustees be created by the Big Three to represent their claims and that the ACR or ACC be instructed to set aside a fixed percentage of reparation to be held in trust for them by the International Board of Trustees.....	1
Memo, 7-21-45, by US Delegation re claims for reparation and restitution of private persons to be handled by their representative governments and claims of stateless persons to be handled by a proposed International Board of Trustees. The functions and plans of this Board to be outlined..	2
Memo, 7-29-45, SecState from Pauley re memo prepared by Pauley on a possible method of providing reparations for stateless persons (2nd Draft of memo re reparations and restitution for stateless persons - page 1.). Attached summary of memo.....	3

320971

DECLASSIFIED	RG	59
Authority NND 760050	Entry	European Division Sub 1 Rb 454
By WDP NARA Date 3/22/00	File	Stateless Persons
	Box	20

July 18, 1945

MEMORANDUM

Reparations and Restitution for Stateless Persons

Among the factors mentioned in the Crimean Protocol to be considered in the allocation of reparations are the losses suffered by the respective claimant countries. Although reparations will be made available only to the Governments of the claimant countries, the larger fraction of their claim for damages will in most instances represent damages and losses to the private property of their citizens. This will be particularly true of the damage claims of most of Western Europe where private ownership in property predominates. (The damage claims of Great Britain, for example, will be based for the most part on the destruction of privately owned homes, factories and ships.)

Similarly, no matter what principle of restitution is agreed on, the claims of the various governments, under any concept adopted, will be in some measure for items that were the private property of their citizens.

Scattered throughout the world today are many hundreds of thousands of people who have suffered losses and damages through the destruction and looting of their property by the German Government. In nearly every instance these people were avowed enemies of Nazism from the very beginning, and, because of their opposition to Hitler, were not only looted of their private property but also made stateless. Today they have no government to represent them in making claims either for restitution or REPARATIONS.

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DECLASSIFIED	RG	59
Authority NND 760050 By WDP NARA Date 9/22/00	Entry	European Historical Subj Rb 74542
	File	Stateless Persons
	Box	20

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To do justice to these people, it is proposed:

- (1) The three big powers create an International Board of Trustees to represent the interest of stateless people who have claims against Germany.
- (2) The Allied Reparations Commission be instructed by the Big Three to set aside a fixed percentage of reparations which will be turned over to the International Board of Trustees.
- (3) Directives be given to the International Board of Trustees outlining how such reparations as are to be distributed and the uses to which they should be put.

The International Board of Trustees should be composed of persons internationally known for their contributions to social welfare. The nucleus of the Board might be the International Refugee Commission created by the governments of the United States and the United Kingdom which is now looking into the problem of providing for stateless displaced persons in Europe. The details of the directives to be given to the International Board of Trustees would of course have to be worked out.

The International Board would function in a manner similar to that of any government which handled reparations claims for its own citizens. It would define the type of claims that would be recognized, as, for example, destroyed physical property, property taken without payment, and property sold under duress at values which had no relation to a fair or just level. It should recognize claims for destroyed property owned by community groups, as, for example, religious institu-

DECLASSIFIED	RG 59
Authority NND 260050	European
By WDP NARA Date 3/22/00	Division Sub Div 4547
	Box 20

3

tions, hospitals, etc.

The Board should also see that the claims of those who have been ~~murdered~~ liquidated are held in trust to be applied for the relief, rehabilitation and resettlement of stateless persons whose property has been looted or whose livelihoods have been destroyed. The Board might allot certain types of equipment to stateless persons so that they may get a fresh start as self-respecting individuals in industry or agriculture, either in Germany or elsewhere. In other instances, equipment received might be made available to groups of stateless persons who might wish to start cooperative productive enterprises.

Particular effort should be directed to secure equipment helpful in resettlement for groups of stateless persons in Palestine, or in other parts of the world where there is opportunity for resettlement.

The plan here proposed has special significance to the people of the United States and Great Britain. Unless some arrangement is made for stateless persons, American and British citizens will, in the last analysis, pay the bill for taking care of and reestablishing them. They are doing it today. They are doing it for stateless persons in Europe through their proportionately large contributions to UNRRA and to the Red Cross. They are doing it through Army feeding. They are doing it by private philanthropic contributions of huge sums that are being distributed throughout the entire world to keep these people alive and give them a new start in life. In Palestine alone sums collected from private persons, are being spent at the rate of millions of dollars per month to enable stateless refugees from

320974

DECLASSIFIED	RG	59
Authority NND 760050 By WDP NARA Date 9/22/00	Entry	European Division Sub Rb. A547
	File	Stateless Persons
	Box	20

4

Germany to get back on their feet.

With the moral and social conscience of the average American and British citizen being what it is, one can rest assured that they will continue to bear this burden as long as they have anything to contribute. By treating the problem of people who are robbed and made stateless by Hitler as a problem of reparations and restitution, we will shift the burden to Germany. If nothing is done, the citizens of the United States and the United Kingdom will, in effect, be indirectly paying reparations through their contributions to the maintenance of stateless persons, while the citizens of other countries will be getting their share directly from Germany.

320975

DECLASSIFIED	RG	59
Authority NND 760050	Entry	European Division Sub 1 File 4547
By WDP NARA Date 3/22/00	File	Stateless Persons
	Box	20

July 21, 1945

Memorandum by U. S. Delegation

Private persons whose property was despoiled by Germany will have their claims for reparation and restitution taken care of by their representative governments.

There is no machinery available to represent the hundreds of thousands of people who fought Hitler from the very beginning and who, after being robbed and looted by the Nazis, were made stateless.

To do justice to these stateless people it is proposed:

1. The three powers should create an International Board of Trustees to represent the interest of stateless people who have claims against Germany. This Board would handle the claims of stateless persons in the same way that the United States, Britain, or any other government handles the claims of their respective citizens.
2. The three powers should instruct the Allied Commission on Reparations to set aside a fixed percentage of reparations to be turned over to and held in trust for stateless persons by the International Board of Trustees.
3. The three powers should issue directives to the International Board of Trustees outlining how such reparations should be distributed and the uses to which they should be put. These directives should include a general statement of the principles that will guide the Board in determining claims submitted to it and in distributing the reparations set aside. In distributing the machines, equipment, and goods received as reparations by the Board primary emphasis should be placed on relieving, rehabilitating, and re-settling the stateless persons whose claims against Germany are validated.

2

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DECLASSIFIED	RG	59
Authority NND 760950	Entry	European Division Sub File 454
By WDP NARA Date 3/22/00	File	Stateless Persons
	Box	20

*Stateless  
Persons*

August 29, 1945

MEMORANDUM

TO: THE SECRETARY OF STATE  
FROM: EDWIN W. PAULEY

Before leaving for Moscow in May, I discussed with the President the possibility of arriving at an agreement with the other interested powers whereby a portion of reparations in kind would be made available for stateless persons who had been robbed of their property by Hitler. The President reacted favorably to my proposal but felt that it was a bit early to make any definite decision in the matter. He suggested that I discuss the idea with our Ambassador in London and in Moscow so that they might bring it to the attention of the British and Russian authorities.

While at Potsdam, I put down on paper a possible method of providing reparations for stateless persons. Due to the difficulties that we ran into on reparations matters, I hesitated to bring this memorandum to your attention. However, it has occurred to me that the matter might be raised by you at the Council of Foreign Ministers in London. I believe that both the British and the French representatives on the Reparations Commission are sympathetic to the plan that I have outlined.

I am attaching a copy for you and shall appreciate an opportunity to talk to you about it before you leave for London.

3.

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DECLASSIFIED	RG	59
Authority NND 760050	Entry	European Timor Sub Rb. 4547
By WDP NARA Date 9/23/00	File	Stateless Persons
	Box	20

MEMORANDUMReparations and Restitution for Stateless Persons

Among the factors mentioned in the Crimean and Berlin Protocols to be considered in our reparations policies are the losses and suffering caused to respective claimant countries. Although reparations will be made available only to the Governments of the claimant countries, the larger fraction of their claims for damages will in most instances represent damages and losses to the private property of their citizens. This will be particularly true of the damage claims of most of Western Europe where private ownership in property predominates. (The damage claims of Great Britain, for example, will be based for the most part on the destruction of privately owned homes, factories and ships.)

Similarly, no matter what principle of restitution is agreed on, the claims of the various governments under any concept adopted, will be in some measure for items that were the private property of their citizens.

Scattered throughout the world today are many hundreds of thousands of people who have suffered losses and damages through the destruction and looting of their property by the German Government. In nearly every instance these people were avowed enemies of Nazism from the very beginning, and, because of their opposition to Hitler, were not only looted of their private property but also made stateless. Today they have no government to represent them in making claims either for restitution or reparations.

To do justice to these people, it is proposed:

- (1) The Powers represented at the London Conference create an International Board of Trustees to represent the interests of Stateless people who have claims against Germany.
- (2) The Allied Reparations Commission or the Control Council be instructed by the Big Three to set aside a fixed percentage of reparations which will be turned over to the International Board of Trustees.
- (3) Directives be given to the International Board of Trustees outlining how such reparations as are to be distributed and the uses to which they should be put.

The International Board of Trustees should be composed of persons internationally known for their contributions to social welfare. The details of the directives to be given to the International Board of Trustees would of course have to be worked out.

The International Board would function in a manner similar to that of any government which handled reparations claims for its own citizens. It would define the types of claims that would be recognized, as, for

DECLASSIFIED	RG	59
Authority NND 760050	Entry	European Human Subj File 4547
By WDP NARA Date 3/22/00	File	Stateless Persons
	Box	20

- 2 -

It would define the types of claims that would be recognized, as, for example, destroyed physical property, property taken without payment, and property sold under duress at values which had no relation to a fair or just level. It should recognize claims for destroyed property owned by community groups, as, for example, religious institutions, hospitals, etc.

The Board should also see that the claims of those who have been murdered or have died in concentration camps are held in trust to be applied for the relief, rehabilitation and resettlement of stateless persons whose property has been looted or whose livelihoods have been destroyed. The Board might allot certain types of equipment to stateless persons so that they may get a fresh start as self-respecting individuals in industry or agriculture, either in Germany or elsewhere. In other instances, equipment received might be made available to groups of stateless persons who might wish to start cooperative productive enterprises.

Particular effort should be directed to secure equipment helpful in resettlement for groups of stateless persons in Palestine or in other parts of the world where there is opportunity for resettlement.

The plan here proposed has special significance to the people of the United States and Great Britain. Unless some arrangement is made for stateless persons, American and British citizens will, in the last analysis, pay the bill for taking care of and reestablishing them. They are doing it today. They are doing it for stateless persons in Europe through their proportionately large contributions to UNRRA and to the Red Cross. They are doing it through Army feeding. They are doing it by private philanthropic contributions of huge sums that are being distributed throughout the entire world to keep these people alive and give them a new start in life. In Palestine alone sums collected from American and British citizens are being spent at the rate of millions of dollars per month to enable stateless refugees from Germany to get back on their feet.

With the moral and social conscience of the average American and British citizen being what it is, one can rest assured that they will continue to bear this burden as long as they have anything to contribute. By treating the problem of people who were robbed and made stateless by Hitler as a problem of reparations and restitution, we will shift the burden to Germany. If nothing is done, the citizens of the United States and the United Kingdom will, in effect, be indirectly paying reparations through their contributions to the maintenance of stateless persons, while the citizens of other countries will be getting their share directly from Germany.

320979

DECLASSIFIED	RG 59
Authority NND 760050 By WDP NARA Date 3/22/00	European Division Sub File 4547
Entry	File Stateless Persons
Box	20

Reparations and Restitution for Stateless PersonsSummary

Private persons whose property was despoiled by Germany will have their claims for reparation and restitution taken care of by their representative governments.

There is no machinery available to represent the hundreds of thousands of people who fought Hitler from the very beginning and who, after being robbed and looted by the Nazis, were made stateless.

To do justice to these stateless people it is proposed:

1. The Powers meeting in London should create an International Board of Trustees to represent the interest of stateless people who have claims against Germany. This Board would handle the claims of stateless persons in the same way that the United States, Britain, or any other government handles the claims of their respective citizens.
2. The Powers should instruct the Allied Commission on Reparations or the Control Council to set aside a fixed percentage of reparations to be turned over to and held in trust for stateless persons by the International Board of Trustees.
3. The Powers should issue directives to the International Board of Trustees outlining how such reparations should be distributed and the uses to which they should be put. These directives should include a general statement of the principles that will guide the Board in determining claims submitted to it and in distributing the reparations set aside. In distributing the machines, equipment, and goods received as reparations by the Board primary emphasis should be placed on relieving, rehabilitating, and re-settling the stateless persons whose claims against Germany are validated.

DECLASSIFIED

Authority NND 765011  
3/25/00  
By WDP NARA Date

RG 84

Entry 2531-B

File 400R

Box 53

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

AG CABLE CONTROL

DATED OF INCOMING MESSAGE 072133A Mar 46  
548/07/wee~~SECRET~~~~ROUTINE~~

FROM : AGWAR FROM JOINT CHIEFS OF STAFF  
 TO : USFET FOR MCNARNEY, USFA FOR CLARK  
 INFO : OMGUS  
 REF NO : WX-99226.

BOOK MESSAGE

I. This directive, received from the State, War and Navy Departments, is issued to you as Commanders in Chief, US Zone of Occupation in Austria and Germany and as US Members of the Allied Councils for Austria and Germany.

Subject directive applies to restitution from Germany and Austria to Italy, Hungary, Rumania, and Finland and from Germany to Austria. It supplements WX-85965, 29 Nov. 1945.

You will seek to obtain agreement in the Control Council of the application in the other Zones of Occupation of the policies laid down in this directive. If, in your judgement, it appears impossible to obtain quadripartite agreement, you will explore the possibilities of a tripartite agreement applicable to the 3 Western Zones and make appropriate recommendations to the Joint Chiefs of Staff. You will proceed with the application of this directive in your own zone even prior to agreement, provide however, that restitution of property defined in paragraphs 2-B and 2-E below will be effected only when the return of such property is certified by the appropriate representative of the claimant country to be urgently required for the rehabilitation and reconstruction of his country.

## Items Subject to Restitution.

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

SCC IN 22212

~~SECRET~~~~SECRET~~

Copy No. 116

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

320981

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531-B  
File 400B  
Box 53

REF NO: WX-99226

S E C R E T

-2-

A. Works of art and Cultural works of either religious, artistic, documentary, schoolastic or historic value including, as well as recognized works of art, such objects as rare musical instruments, books and manuscripts, scientific documents of an historic or cultural nature and all objects usually found in museums, collections, libraries and historic archives.

B. Heavy and power-driver industrial and agricultural machinery and equipment, rolling stock, locomotives, barges and other transportation equipment (other than sea-going vessels) and communication and power equipment.

C. Other goods, valuables (excluding gold, securities, and foreign currencies), materials, equipment, livestock and other property found in storage or otherwise in bulk form.

3. Property mentioned in subparagraph 2a above shall be restored to the government of the country from which it was taken or acquired in any way, whether through commercial transactions or otherwise, upon submission of satisfactory proof of its identifiability by the claimant government provided requisition occurred during the respective periods of occupation detailed in subparagraph 4b below.

4. Property mentioned in subparagraphs 2B and 2C above shall be restored to the government of the country from which it was taken only if:

A. The claimant government submits satisfactory proof that the property in question was acquired by Germany as the result of an act of force or was removed into Germany/or Austria without compensation;

B. The property in question was taken from Italy during the period of 3 Sept. 1943 to 25 May 1945; from Hungary during the period of 20 Jan 1945 to 15 May 1945; from Austria during the period 12 Mar. 1938

SCC IN 22212

S E C R E T

320982

DECLASSIFIED

Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531-B  
File 400B  
Box 53

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

## AG CABLE CONTROL

REF NO: INCOMING MESSAGE

**SECRET**

to 15 May 1945 from Austria during the period of 12 Sept. 1944 to 15 May 1945, and from Finland during the period 19 Sept. 1944 to 15 May 1945.

5. Restitution of rolling stock, locomotives, barges and other transportation may be deferred until you have formulated an over-all program phased so as not to reduce available transportation below that required for ~~MIL~~ Deployment and for purposes of the occupation, including restitution to the United Nations, minimum requirements of the Austrian (German) economy, removal of industrial plant and equipment for reparations, as well as such recommendations as have been, or will be made, by European Central Inland Transport Organization. You will as soon as possible submit such a program to the Joint Chiefs of Staff for approval.

6. Restitution of any item mentioned in subparagraph 2C above need not be made if, in your judgement, restitution would jeopardize satisfaction of the minimum requirements of the Austrian (German) economy or would give rise to a need for additional US assistance to, or imports into Austria (Germany).

## General Provisions

7. The procedures and general provisions contained in paragraphs 3 through 9 of WX-85965, 29 Nov., shall be applied in carrying out this directive.

WX-85965 SCC IN 15174 3 Dec. 1945

INFORMATION	O/S	ECON	FIN	LEGAT
	T&M	TRANS P	POL AFF	AF
	AG RECORDS			

SCC IN 22212 8 Metal 46 1040A JAK/wes REF NO: WX-9

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Copy No.

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

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Authority NND 765011  
By WDP NARA Date 3/25/00RG 84  
Entry 2531-B  
File 400B  
Box 53

POST

MAR 19 1946

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

STAFF CABLE CONTROL

## INCOMING MESSAGE

*Handled by [Signature]*

DATED 150017Z

RECD 151647A Mar 46  
658/15 /bw

POLITICAL DIVISION

MAR 18 1946

S E C R E T

R O U T I N E

FROM : AGWAR SIGNED WARCAD

TO : OMGUS

INFO : US FA (ADVANCE)

REF NO. : WX-80641

Subject is internal restitution in Germany.  
 Retels USPolad to State Dept 903 of 31 Oct 1007 of 14 Nov  
 1181 of 5 Dec.

TOP SECRET

Subject to receipt your comments, State and War Depts strongly favor adoption of restitution of property and where that is not appropriate for indemnification to persons within Germany injured by Nazi regime within Germany in person or property by reason of race, nationality, religious beliefs or by reason of opposition to NSDAP or its doctrines.

Treatment of claims of persons now outside Germany being further considered.

If too great delay anticipated in obtaining Quadripartite approval restitution and indemnification should be effected to extent possible unilaterally within United States Zone. Suggest that restitution to individuals should precede restitution to organizations and indemnification if latter problems found more complex. See JCS 1067/6 para 48E last sentence.

Considered that claims to indemnity should be charge upon German state and that inflationary aspects of added burden thus placed on German public finance should not

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S E C R E T

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1/L Mar

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WX-80641

- 2 -

deter or delay accomplishment of suitable indemnification program. In any event, inflationary aspects could be substantially counterbalanced by measures to marshal Nazi or war profits and spoliated property, which measures it is assumed are now being effected.

Special tribunals, dominance of equitable considerations, short period for filing claims approved. Legal technicalities to be avoided. In view extraordinary remedy consideration should be given to excluding claims for mental suffering and by heirs not closely related and assignees.

US Polad 903, 31 Oct, not identified in SCC  
1007, 14 Nov, not identified in SCC  
1181, 5 Dec, not identified in SCC

ACTION : Pol Aff  
 INFORMATION : O/SS  
               Econ  
               Legal  
               Finance  
               AG Records

ADDED DISTRIBUTION: POL AFF  
18 Mar 46

CHANGE OF ACTION: FIN  
18 Mar 46

SCC IN 22825 16 Mar 46 1030A JAK/bw REP NO: WX-80641

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MAR 25 1946

Post

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

STAFF CABLE CONTROL

## OUTGOING MESSAGE

S E C R E T

~~SECRET~~

REF ID: A41046

BERLIN, GERMANY

TO : AGWAR FOR JCS

INFO : USFET MAIN FOR MCNAULNEY; USFA FOR CLARK

FROM : OMGUS SIGNED CLAY

REF NO : CC-1929 TEL: 231900A MAR 46/wg

1. Expansion of scope of restitution to include former enemy countries is subject.

*Reference your WX-81319*  
*Acknowledged to WX-81319*  
 Reference your WX-99226 of 5 March 1946 as supplementing your WX-85965 of 29 November 45.

Quadrupartite definition of restitution of 21 January 1946 CONL/P (46) 3 revise (See USPOLAD to Secstate Telegram 198 of 22 Jan 46 and USPOLAD to Secstate Telegram 169 of 19 Jan 46 quoting definition adopted by CORC) considered here as confining eligibility for restitution of Allies. Use of "removed by enemy" and "Occupation" in defining property to be subject to restitution as well as reference to "United Nations" in the quadrupartite definition have been interpreted by other Allied representatives as restrictive and prior to receipt of above radio WX-99226 of 5 March 46 the restitutions procedures committee of reparations deliveries and restitutions directorate had unanimously agreed to recommend that eligibility for restitution be limited to signatories of declaration of 5 January 1943 and Paris Reparations Conference of 24 December 1945 together with such other nations as may hereafter be specified by Allied Control Council. This recommendation is to be considered by ROR Directorate meeting on 25 March 46 and informal discussion with delegates of Allies indicate committee recommendation will be approved and the recommendation forwarded to CORC unless U. S. objects.

2. In view of attitude of other Allies as indicated above and the possibility of additional drains on minimum allowable economy of Germany as a whole and U. S. Zone in particular, we request your reconsideration of entire directive of WX-99226 of 5 March 46. Your attention is invited to fact that International Military Tribunal indictment of German

CC-1929

S E C R E T

Copy No

24 Mar

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CC-1929

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war criminals makes no mention of Italy, Hungary, Rumania or Finland as victims of utilization of Nazi control for foreign aggression.

3. Political Advisor, OMGUS informs us that State Department has already authorized issuance of invitations to nations listed in WX-99226 of 5 March 46 to submit claims. We believe any restitution under these claims would be unilateral in our Zone and inconsistent with uniform treatment of Germany. We are convinced that other Occupying Powers, anxious for maximum reparations and minimum cost of occupation, will evidence no interest in restitution to former Axis associates. Initiation of action to obtain revision of quadripartite definition of restitution to cover new directive, or quadripartite or tripartite agreement to consider these enemy nations as eligible for restitution, as well as any unilateral action in U. S. Zone will await your reply to this communication. If commencement of restitution from Germany to Austria is desired without delay on a unilateral basis request special separate cable authorizing such action regarding Austria.

WX-99226 is SCG IN 22212

WX-85965 is SCG IN 15174

ORIGINATOR : ECONOMICS AUTH: J. H. ALLEN  
COL

INFORMATION : O/SS . . . LEGAL  
POL AFF FINANCE  
AG. RECORDS

CC-1929 24 Mar 46 1125A JAK/wg

S E C R E T

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File

for 1949  
see 23613AIRGRAMFrom : U.S. Political Adviser  
for Germany, Berlin

No. : A-930

Date : December 15, 1948

Mailed : 12/20/48

UNCLASSIFIED

Rec'd :

The Secretary of State,  
Washington, D.C.

A-930, December 15, 1948.

Referring to previous correspondence in regard to the completion of the external restitution program in the United States Zone, there is quoted below a circular telegram which CMUSA sent to various Military Government offices in the zone on December 13:

"Ref No: V-37352

"In view of the substantial completion of the Restitution Program you are to take appropriate action to have the Allied Restitution Mission personnel as listed below relieved from their assignment in the US Zone during the month of December 1948 on the dates as indicated.

Mission	Location of Representative	Name	Termination Date
Austria	Stuttgart	Schutze	20 Dec
	Munich	Geschaider	15 Dec
		Mr. Gatterer	15 Dec
		Gatterer	15 Dec
Italy	Karlsruhe	Bianzoni	20 Dec
		Fornara	20 Dec
		Ricelli	20 Dec
		Morrelli	20 Dec
		Short	20 Dec
		Siviere	20 Dec
		Euphile	20 Dec
	Wiesbaden	Cassini	10 Dec

Italy Stuttgart

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A-930, December 19, 1948  
USPOLAD, Berlin

Mission	Location of Representative	Name	Termination Date
Italy	Stuttgart	Baldorchi	22 Dec
	Munich	Selser	22 Dec
		Turina	22 Dec
		Cornetto	22 Dec
		Goldsmith	22 Dec
		Ouidi	22 Dec
		2 specialists on temporary 12 day assignment are cleared to handle street car transaction	
Belgium	Karlsruhe	Hrc. Bugenne	20 Dec
		Bouvinne	20 Dec
		De Schutter	20 Dec
		Van Calster	20 Dec
		Vandenberre	20 Dec
		Vandevoortel	20 Dec
		Motel	20 Dec
		Mortelmans	20 Dec
		Plaeschart	20 Dec
		Gaspers	20 Dec
		Catherine	20 Dec
		Verchmere	8 Dec
		Beaurainq	8 Dec
		Sajart	22 Dec
		Defeuileneer	22 Dec
		Beekebroek	22 Dec
		De Hoosch	22 Dec
		Veekmans	22 Dec
	Andric	22 Dec	
	Faburiaum	22 Dec	
	Van Drenna	22 Dec	
	Hardie	22 Dec	
Czecho- slovakia	Karlsruhe	Rals	31 Dec
	slovakia	Manakova	31 Dec
		Kacek	31 Dec
		Tafuta	31 Dec
		Pokoj	31 Dec
		Podkapsky	16 Dec
		Kryf	16 Dec
		Bouska	16 Dec

Czechoslovakia Munich

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3/25/00  
 By WDP NARA Date 3/25/00

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A-930, December 15, 1948  
 USPOLAD, Berlin

Mission	Location of Representative	Name	Termination Date
Czecho-slovakia	Munich	Boruvka	31 Dec
		Kuberka	31 Dec
		Karz	31 Dec
		Vinterlik	31 Dec
		Hermann	31 Dec
		Kejmar	31 Dec
France	Karlsruhe	Bethka	20 Dec
		Barlerin	20 Dec
		Bourdis	20 Dec
		Callet	20 Dec
		Cuffelo	20 Dec
		Holman	20 Dec
		Kodesch	20 Dec
		Michenen	20 Dec
		Mondot	20 Dec
		Salosca	20 Dec
		Simon	20 Dec
		Strasser	20 Dec
	Bremen	Faillat	31 Dec
	Stuttgart	Paguet	31 Dec
		Codet	31 Dec
		James	31 Dec
		Hageny	31 Dec
	Munich	Westermann	31 Dec
		Rossfelder	31 Dec
		Mitrassow	31 Dec
		Bahri	31 Dec
		Brant	31 Dec
		Hugot	31 Dec
		Grimmard	31 Dec
Netherlands	Karlsruhe	Smit-Kleine	13 Dec
		Mrs. Smit-Kleine	13 Dec
		Kowak	13 Dec
		Ter Weijden	13 Dec

Yugoslavia

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Entry 2531-B  
File 400B  
Box 31UNCLASSIFIEDA-930, December 15, 1948  
USPOLAD, Berlin

Mission	Location of Representative	Name	Termination Date
Yugoslavia	Karlsruhe	Breje	13 Dec
		Mrs. Breje	13 Dec
		Slijivice	13 Dec
Poland	Karlsruhe	Wolf	13 Dec
		Twadrowska	13 Dec
		Morski	13 Dec
		Szareta	13 Dec

"In the event that deliveries are not completed from Bavaria to Czechoslovakia during the present month representatives Huvelka and Malijovsky will remain during January 1949 to accept final deliveries. Bidot and Winterhalter will remain in Wurttemberg-Baden to accept final deliveries for the French during the month of January 1949 and 6 French representatives - Arvengas, Soubansky, Edelins, Haudeau, Reynaud and Tirard- will remain in Bavaria to accept final deliveries scheduled for completion during early part of February 1949. These individuals are to be relieved from their assignments immediately upon completion of final deliveries.

"The Chief of the Reparations Liaison See Frankfurt will coordinate the release of the above listed personnel with the various HQs and will make the necessary arrangements for voiding their MI Entry Permits at the time of their departure.

"As a matter of information the release of individuals as referred to herein, has been coordinated with the Chiefs of the Restitution Branches and the Chiefs of the Allied Restitution Missions."

MURPHY

JEGantentein/te

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Authority NND 765011 3/25/60	
By WDP NARA Date	

RG 84  
 Entry 2531-B  
 File 400B  
 Box 211

File Room Copy

Berlin, November 17, 1948.

CONFIDENTIAL

MEMORANDUM

To : The Ambassador  
 From : T. C. Adams  
 Subject : Status of Internal Restitution Program  
 (MG. Law No. 59)

Mr. Holt has informed me that you would like a brief on the present status of the internal restitution program. By way of background I should like to quote the following from our third person despatch no. 1290 of August 26:

"The Department will recall that Law No. 59 requires that petitions for restitution of identifiable property must initially be filed with a Central Filing Agency, which, by Regulation No. 1 to the Law, was established at Bad Nauheim. The Central Filing Agency reviews these petitions to ensure that they are correct as to form and contain the necessary information and documentation. In addition the Agency receives and processes reports from persons holding property subject to internal restitution, as required by Articles 73 and 74 of Law No. 59 and Regulation No. 2 thereto. The processed petitions and reports are forwarded to the appropriate Restitution Agency of the district in which the property subject to restitution is located. [These are twenty in number; ten are located in Land Hesse, five in Bavaria, four in Wuerttemberg-Baden and one in the Bremen enclave.] Here an attempt is made to work out with the interested parties an amicable settlement without further recourse to the courts. This failing, the case is referred to the Restitution Chamber, a branch of the German Courts especially created for the adjudication of restitution cases. Decisions rendered by the Chamber may be appealed to the Civil Division of the German Court of Appeals. Decisions of both the Restitution Chamber and the Court of Appeals are subject to review by the Board of Review whose rulings are final."

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The Central Filing Agency legally came into being on November 10, 1947 with the promulgation of Law No. 59. However, it actually did not begin full scale operations until the middle of February, 1948. As of October 31, 1948, the Central Filing Agency had received 11,335 petitions of which 4,313 are incomplete and are being held in suspense, leaving 7,022 complete petitions. Of these 7,022 complete petitions, 3527 or 50 percent have been fully processed and forwarded to the Restitutions Agencies. Of the 3527, 1350 or 38 percent were forwarded to Restitutions Agencies in Bavaria, 1251 or 36 percent to Hesse, 857 or 24 percent to Wuerttemberg-Baden, and 69 or 2 percent to Bremen. To show you how filings of petitions have increased in view of the December 31 deadline, it is significant to note that 3,963 or 56 percent of the 7,022 complete petitions were received by the Central Filing Agency during the months of September and October, last. 1755 or 50 percent of these completed petitions received by the Central Filing Agency have already been processed and forwarded to the Restitution Agencies.\* November and December are expected to be the heaviest months as regards receipt of petitions during the filing period.

When it is considered that the above figures do not include November and December receipts or the 50,000 claims for heirless property which the Jewish Restitution Successor Organization expects to file, some idea of the enormity of the entire operation can be gained.

I should like to add here, parenthetically, that Hawley Smith and I inspected the Central Filing Agency at Bad Nauheim last summer and we found it handling a difficult and tedious job with the utmost efficiency.

I have been unable to get statistics regarding the number of amicable settlements made by the Restitutions Agencies, the number of cases referred to and disposed of by the Restitutions Chamber, etc. However, these figures, up to the end of October, will be available within four or five days and I will bring them to your attention. This should give us an accurate picture of how

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\* With regard to these figures, which I received from Property Control, Wiesbaden, I was told that they are not final but are believed to be substantially correct. They are to be included in a report to General Clay, and I was asked to use them with the utmost discretion until their report gets through to him.

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of how far the overall program has progressed. I do know, however, that there have been some amicable settlements made by the Restitutions Agencies and that the Restitutions Chambers in Wuerttemberg-Baden and in Bavaria have heard some cases. There have been no reported appeals to the German Court of Appeals.

You have doubtless noted from recent press releases the establishment on August 14 of the four-man Board of Review and the announcement on November 6 of the appointment by General Clay of the Members of that Board. (This has been reported to the Department). They are Judge Johnson T. Crawford of Oklahoma, Frederick G. Hulse of Monroe, New York; Judge Mayer L. Casman of Philadelphia, Pennsylvania; and Capt. Peter J. Flanagan of New York. Of the four, I know only Captain Flanagan, who has been assistant to Mr. Panuch, and Mr. Hulse, who you will recall has been Deputy Chief of the Restitution Branch and then later executive officer of the Property Division. Mr. Hulse has recently made two inspection tours of the Restitution Agencies in the Zone and is a veritable mine of information on all phases of internal restitution. I spoke with him today, and told him of your continuing interest in the program. He stated that he will be in Berlin all of next week and would be glad to talk with you at any time should you so desire. In the course of our conversation he expressed apprehension that the program might be drastically slowed down because of personnel shortages in the Restitution Agencies. He pointed out that this is especially true of the Restitution Agencies in Wuerttemberg-Baden where there are only four agencies, as compared with ten in Hesse, and five in Bavaria. There are only three to four persons in each Agency in Hesse and ten to twelve in each of the five agencies in Bavaria. This pronounced inequality results from an inaccurate estimate of the probable number of petitions to be handled in this Land -- the German estimate was 4,000, while Mr. Hulse states the number will likely be around 12,000. The Minister-President will be asked to provide additional funds for more personnel, but he expects difficulty in getting compliance.

*in Wuerttemberg-Baden  
as compared to 6  
to 8 in each Agency*

I asked Mr. Hulse if there was any evidence at this point that the Germans were not in sympathy with the program and that there might be some foot dragging on the part of German officials directly involved. He stated that on the whole he had high regard for the officials with whom he had talked and that he had detected no resentment so far. He stated that he would like to have an opinion poll to determine the sentiments of the German public. I commented that it might be

useful.

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useful, but that perhaps the private prejudices of court judges and other officials might be a more significant factor.

I have mentioned above the December 31 deadline for the filing of internal restitution claims. Both QMGUS and the Department have received requests for extension of this date. In a cable to Army, V-36664 of November 6, attached, CINCEUR states that no extension of the filing date should be granted and requests that the Department cable immediately all Consulates and Embassies asking them to request the Governments to which they are accredited to give full publicity to the necessity of filing by December 31. I have informed the Department by telegram of this cable.

TGA/nml

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Authority NND 765011  
By WDP NARA Date 3/25/00

RG 84  
Entry 2531-B  
File 400B  
Box 211

*Charles Willkins*  
BERLIN 12/10/48 PWG/P *500*

From: Embassy, Warsaw  
Date of Mailing:  
Rec'd:

POLITICAL DIVISION

DEC 10 1948

BERLIN, GERMANY

UNCLASSIFIED

SECSTATE  
WASHINGTON

A-1887, November 23, 1948.

The Ministry of Foreign Affairs Bulletin contained, on November 20, the following communique on the joint protest of the Restitution Missions in Germany to General Clay:

"The Restitution Missions of the following countries: Austria, Belgium, Czechoslovakia, France, Italy, Yugoslavia, Poland and Rumania prepared in Karlsruhe on October 27, 1948 a joint protest to General Clay in connection with the difficulties put by the American authorities in the way of re-vindication of assets looted during the war by the Germans.

"The representatives of States concerned claim that the Americans exercise pressure on them ill-befitting their position as representatives of allied nations. The object of this pressure is to favor the Germans to the obvious detriment of the wronged nations. The main charges against the conduct of American restitution offices are enumerated in the protest as follows:

"1) Fixing dates for the filing of restitution claims when the keeping of such dates is sometimes impossible despite all the efforts of the allied restitution missions.

"2) Defectiveness of the American procedure allowing for the filing of claims only in the event when the person applying proves that the given unit has been fraudulently concealed by the Germans. The fraud should be considered as proved by the very fact that the present German holder of the looted asset has not given notice of its being in his possession despite regulations threatening punishment for non-notification. The present procedure does not even permit the original owner searching for his lost asset to carry out the necessary investigation in the country.

*POLITICAL DIVISION*

DEC 10 1948

BERLIN, GERMANY

11/25/48  
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Page -2- A-1887, November 23, 1948, from the Embassy, Warsaw.

"Moreover, it should be stated that the great German industrial concerns and German offices rarely give notice of looted assets which happen to be in their possession.

"The protest goes on to state that in view of the fact that the investigation is carried on by German offices the German owner of the looted asset avails himself of the above-mentioned offices' warning and conceals the asset until the final term has expired.

"On the basis of the above, the protest demands that:

1) The American authorities desist from exercising pressure by excessive time restrictions on restitution actions.

2) Reconsider those applications which have already been rejected.

3) Continue accepting applications with regard to assets which were disclosed only after the specified final dates.

4) Alter, until the conclusion of the peace treaty, the American restitution policy."

The text of a Note Verbale from the Ministry of Foreign Affairs in Warsaw to the Embassy on the same subject was transmitted with the Embassy's despatch no. 877 of November 15, 1948.

HODGSON

FBurns:C

cc: Berlin

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Entry 2531-B  
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File Room Copy

Berlin, July 14, 1948.

~~SECRET~~

No. 1049

Subject: Restitution Progress.

The Honorable,  
 The Secretary of State,  
 Washington.

Sir:

I have the honor to report that restitution claims have been reexamined with a view of eliminating those of no value or practically no value. The result has been to eliminate, as of the beginning of July 1948, 1350 claims for non-cultural items and 400 claims for cultural items. Claims which can be definitely established as having little, if any, value, such as personal effects, are returned to the various Restitution Missions.

The purpose of the above action is to reduce the amount of work in the restitutions program by eliminating small claims of doubtful or of no validity. For instance, it is estimated that the Office of Military Government in Bremen can end its restitutions program within approximately two months, provided all of its outstanding business is brought up to date. Outstanding claims total only 170, of which 55 have been returned to the Office of Military Government (U.S.) Restitution Control Office in Karlsruhe with the recommendation that they be dropped.

Some of the details of this new restitution policy and procedure were imparted to the chiefs of the Foreign Restitution Missions at a conference with Office of Military Government (U.S.) officials at Karlsruhe on June 22, 1948.

The missions were informed that the minimum German economy provisions for locatable items will no longer be applied. Except in the case of peace treaty nations, in order to establish a claim the missions will only have to prove that the property claimed was physically removed during the occupation. However, since normal commercial transactions during the occupation period are not excluded, the missions will be required to present facts and not conclusions or probabilities in support of their claims, and the processing of claims will be greatly expedited if the missions can submit proof of circumstances which by their nature exclude the assumption of a normal commercial transaction. Such proof must be submitted, on the average, within 30 days.

The missions were informed that property removed in the course of a transaction essentially commercial in character will not be considered subject to restitution

under the

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No. 1049  
 USPIGLAD, Berlin,  
 July 14, 1948.

under the London Declaration and the Allied Control Authority definition of the term, "restitution". The burden of proof that a normal commercial transaction was involved will be on the Germans, who will not be heard with general dissertations, but only with facts supported by documentary evidence. Where it appears that the property was removed by a looting corporation or upon orders of a military or para-military organization, a normal commercial transaction is excluded and the Germans will not be heard. The German holder will be given, on the average, 15 days in which to present his case.

The missions were informed that the normal commercial transaction test will not be applied retroactively, i.e., valid releases in the hands of the missions will not be reexamined in the light of the new policy, except where a German minimum economy petition was pending as of the date of announcement of the new policy. Under the new policy, the mere fact that payment was made will not be considered to constitute a normal commercial transaction. On the other hand, a normal commercial transaction will be considered present where an article was ordered before the war but delivered during the occupation. Another test will be whether or not the buyer and seller transacted business before the occupation.

The missions were informed that all claims for inland waterway craft and rolling stock will no longer be processed by the Restitution Branch, but will be referred to the Transport Group, Office of the Economics Adviser, Office of Military Government (U.S.), Berlin.

The missions were informed that in the case of motor vehicles, where the claimant nation can prove that the motor vehicle in question was manufactured during the occupation, an irrefutable presumption of restitutability will apply. Where the claimant nation cannot prove the year of manufacture or where the year of manufacture antedates occupation, the mere fact of foreign manufacture is insufficient proof of restitutability. Motor vehicles will be restituted in their present condition, i.e., repairs as well as new tires, batteries, etc., will be considered as an offset to wear and tear.

With respect to cultural restitution, the missions were informed that although no specific date had been set for the filing of claims for cultural objects, nonetheless claims should be submitted as promptly as possible within the next six weeks, since a cutoff date may be established by higher authority somewhat sooner. Cooperation was requested of the missions in disposing of all claims for objects of little or no value, and it was suggested that all claims for objects which are not of cultural value be immediately dropped.

The missions

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- 3 -

No. 1049  
 USPOLAD, Berlin,  
 July 14, 1948.

The missions were informed that the criterion of normal commercial transaction would be applied to cultural objects with certain modifications. A considerable or unusual increase in business between an art dealer and anyone in an occupied country would be reasonable evidence of force or duress, and any evidence received that a dealer in Germany was acting for, or with, the support of the Nazi Party or any military or para-military organization in Germany would invalidate any claims under criterion of normal commercial transactions.

The missions were informed that claims for objects which have not been found and for which no clear indication has been given that they are probably within the United States Zone would be placed on inactive status. Such claims are still considered valid, and will be reopened upon receipt of information that the claimed objects are in the United States Zone of occupation in Germany.

The missions were informed that the Restitution Branch expected to be in full operation with a complete staff and under the simplified procedure and policy within three weeks, or about the middle of July.

With respect to securities, the missions were informed that the Office of the Finance Adviser, Office of Military Government (U.S.), would issue a master list of securities by the end of July. With the consent of the missions, claims for securities on file with the Restitution Branch will be returned to the missions to be re-submitted at such time to the Office of the Finance Adviser.

In addition, the Restitution Branch was given authority by the Office of Military Government (U.S.) to inform the missions that no provision had been made for replacement in kind of equipment claimed as restitution, but which had been shipped out as reparations. Such claims should be returned to the missions, with the suggestion that the claim could be filed with the recipient nation if the claiming nation so desired.

Subsequent SECRET instructions have been issued to the Restitution Branch, which to some extent modify the minimum German economy provision as outlined above. Where the restitution of a given item would seriously impair the German economy, it should be deferred or rejected on legal or procedural grounds, if possible, in accordance with instructions contained in paragraphs 5 and 6, as read in the light of instructions listed in paragraph 2b(2), of cable WX-81435 from the Department of the Army to the Commander-in-Chief in the European Theatre, dated May 11, 1948.

Military Government is anxious to terminate the restitutions program as soon as possible, but with maximum justice to all concerned. (See telegram CG-5037 to the Department of the Army, July 4, 1948). It is

desired to

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By WDP NARA Date 3/25/00RG 84  
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USPOLAD, Berlin,  
July 14, 1948.

desired to announce December 31, 1948 to the Restitution Missions as the termination date for final disposition of non-cultural claims, and it is believed that external restitution of non-cultural items could be completed by that date. The missions can continue to submit claims of a meritorious nature, although a termination date of April 30, 1948 has been set for the filing of claims for non-cultural items.

It has been learned informally that the British have also been considering a termination date for the restitution of non-cultural items, and have in mind either January 1, 1949, or May 31, 1949. The French do not agree to the establishment of a termination date for the restitution of non-cultural items.

No final date for the submission of cultural claims has been established and United States Military Government authorities are continuing to receive a small number of such claims. It is believed that this part of the restitutions program also can be substantially completed by the end of the year. The British intend to continue accepting cultural claims for an indefinite period.

Responsibility for the properties now in the Archival Depot in Offenbach, the Central Collection Point in Munich, and the Central Collection Point in Wiesbaden, will be transferred to the Minister Presidents of the various Laender, who will sign quantitative receipts for the following: (a) all German privately owned properties; (b) all German publicly owned properties, such as the Bavarian State Picture Collection and the Frankfurt City Institute; (c) all unidentifiable items, including books of German origin (some of the books are classified as national socialistic in temper and are to be utilized as pulp); (d) Prussian State or Reich owned property; and (e) Nazi owned properties, public and private. The Minister Presidents will be responsible for the return to their proper owners of items under (a), (b), and (c) above, and will act as bailee for items under (d) and (e) until such time as a new German Government is formed and a plan worked out by such new German Government for the disposition of these items.

The Minister Presidents will retain control of all properties which may be restitutable to all sectors of Berlin and to the French and Soviet Zones. Also, the Minister Presidents will be responsible for the return to their rightful owners in other countries of items which have been released in error to Germans as privately owned German property.

A small

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No. 1049  
USPOLAD, Berlin,  
July 14, 1948.

A small space, however, will be retained in each collection point by the Military Government so that all Jewish properties as well as all properties subject to internal and external restitution will remain under custody of the Military Government.

Respectfully yours,

Robert Murphy.

In Original and Ozalid  
to the Department.Copies for CM - Mr. Beam  
OK - Mr. Martin

CHPrice/mml

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AB 57

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



AG CABLES 23



## INCOMING MESSAGE

TOO 08152

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CN-34/08 cb~~SECRET~~

P R I O R I T Y

POLITICAL DIVISION

FROM : AGWAR FROM WDSCA ECON

TO : EUCOM

INFO : OMGUS

REF NO : WX-81582

JULY 19 1947

JULY 19 1947

Reurad June CC-9548 fol tel recd by State from Jewish Orgns: "Undersigned Orgns after extended consideration of situation and deep appreciation Gen Clay's views feel that impossibility reach Quadripartite Agreement on restitution law for Germany demonstrated by failure to achieve it within 60 day period originally stipulated by Gen Clay. Orgns believe further delay enactment restitution law in US Zone does not appear warranted. They therefore respectfully urge unilateral enactment law US Zone now stop view British agreement terms law suggest invitation British enact law their Zone simultaneously or earliest possible date. Undersigned Orgns would appreciate your concurrence and communication their views to Gen Clay."

Apparently British still feel Quadripartite action possible while you indicate strongly "our inability to obtain Quadripartite." Under circumstances, suggest you make strong effort obtain British agreement to immediate joint promulgation(?)

Failing such agreement your part would it be helpful for State to approach British at Governmental level or do you advise awaiting the proposed CORC meeting?

CC-9548, 17 June 47, CHNEUR

INFORMATION : S/G  
POL AFI

AGC IN 63402 ) July 47 ) WLC/cb ) REF NO: WX-81582

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

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By MSH NARA Date 3/28/00

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November 20, 1946

Comments of Jewish Organizations Respecting Draft of 18 October 1946  
Of Restitution Law for the American zone of GermanyA. Sections 3 and 3a.

Section 3a is an improvement over the draft of September 23, 1946. The proviso for cases in which the "other party protected the interests of the claimant or his predecessor in interest in an unusual manner and with substantial success" should be reexamined because of the likelihood of abuse. It happened frequently that Jewish owners menaced by Nazi threats of confiscation found themselves obliged to sell to persons who had sufficient influence to induce the Nazis to stay their hand. The owner thus got something for his property instead of having it taken from him without any return at all. In many of these cases the sum obtained was subsequently confiscated in whole or in part. In such and similar cases the holder will certainly invoke the provisions just quoted and, because of the difficulty to rebuke such contentions, they may often be advanced without any basis in fact.

Furthermore, there is a difference in the language of Sections 3 and 3a, insofar as Section 3 and, in fact the whole law, deals with Rueckerstattungssprueche (claims to restitution) while Section 3a introduces the procedural remedy of the Anfechtungsklage (voidance). This distinction found explicit recognition in Par. 6 of the draft. This would tend to show that there is actually intended to be a difference in the meaning of these two terms. However, the procedural provisions of the draft deal exclusively with Rueckstellungsansprueche and do not provide for the procedure to be followed in the Anfechtungsklage.

It is, therefore, suggested to replace Section 3a by the following two paragraphs, which are in line with the draft as of September 2, to be added to Section 3, and to read as follows:

"The same presumption shall hold for the benefit of a person who belonged to a group of persons which in its entirety was to be excluded by persecutory measures of the State or Nazi Party, as set forth in Section 1, from the cultural and economic life of Germany, in regard to transactions entered into by him within the period from January 30, 1933 and May 8, 1945.

The presumption can be overcome only by establishing that the transaction would have taken place even in the absence of National Socialism."

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The words "and the right of avoidance as stated in Section 3a" in Par. 6 are to be deleted.

#### B. Section 5

This Section exempts certain transactions from the application of the restitution law but does not stipulate what shall be their fate. In fact, all these arrangements are of fictitious nature (many may have the form of a sale or similar transaction) and, therefore, the property should be returned to the owner. It would serve a good purpose if Section 5 would stipulate that such arrangements are considered terminated and the former status has to be restored.

#### C. Section 6

(1) Paragraph two dealing with the problem of succession to claims of "corporations and unincorporated associations" forced to disband or otherwise extinguished under National Socialism. First, the draft as it stands might easily be interpreted in such a way that the property belonging to Jewish communities or other organized Jewish bodies, foundations or endowments shall, to a large degree, escheat to the German Reich. Most of these communities and foundations are de facto or de lege no more extant. The paragraph specifies that the claim to their property shall be made by such a body which, by meeting certain criteria, "may be deemed to be successor to the injured party." Because of the decimation of German Jewry it might easily be that in many cases such criteria will not be found to apply. Since the provisions of Article 1936 of the Civil Code do not cover such bodies (in case of foundations, for instance, Section 45ff BGB applies), there is the strong probability that property of these bodies will be claimed by the German state. Second, furthermore, it is left to the German "appropriate Ministry" to decide whether the conditions just mentioned have been met. It is highly inappropriate that German governmental authorities should determine such conditions particularly in cases where there might be great discretionary power involved. Third, it is not certain that "corporations embrace also communities and foundations. It

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is well known that the German Jewish communities were recognized as public law bodies; much property was held by various foundations (Stiftungen) governed not by commercial law but by Art. 80ff of the Civil Code and for the creation of which special permission was necessary. Fourth, even if some of the communities and foundations were not dissolved or were meanwhile reconstructed, their membership represents only a very small fraction of the original numbers and, in most cases, the assets by far exceed the needs of the few members still in Germany, while those who had created them are dead or abroad. It is therefore suggested to amend the second paragraph to read as follows:

II. "In case the party injured by the confiscation was a corporation or an unincorporated association which was dissolved or forced to dissolve because of persecution within the scope of Section I. the right to claim restitution is vested in the former holders of the shares or partnerships and the former partners, and in absence of such claimants in the agency referred to in Par. IV of this Section.

III. In case of properties belonging to extinguished communities or foundations, the claim is vested in the said agency. If the community or foundation is still in existence or has been reestablished, the claim shall remain vested in this body notwithstanding its present size. The reclaimed property shall be divided between this body and the said agency in mutual agreement in an equitable proportion taking into account the present needs of the community or foundation in question."

(2) The third paragraph, while containing a fair nucleus, is not appropriate in many respects. First, the use of the properties is not adequately stated, i.e., it is not sure that Jewish properties will be used for Jewish purposes only. Second, it is left to the successor of the German Reich to establish the association which will succeed to the claims of persons murdered on direct order of the Government of that Reich. If the wording remains unchanged, the masterless and unclaimed Jewish properties may well be vested in organizations which will neither represent the surviving member of the group the former owners belonged to (Jews), nor use it for purposes established in many precedents (e.g., the Greek law No. 808/1946 assigning Jewish masterless properties for Jewish purposes, a similar law enacted in Hungary on October 7, 1946; the provisions of the economic clauses of the Paris Peace Treaties concerning the satellite nations, and the agreements reached in Paris last December and this June concerning the assignment of 95% of all masterless

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properties in neutral countries for Jewish purposes.) Thirdly, there will be cases of properties unclaimed by the owner where Section 1936 of the Civil Code may formally not be applicable. It is, therefore, proposed that this paragraph be amended to read as follows:

"In cases where Section 1936 of the Civil Code would apply or the property is not claimed within the period provided for in this law, agencies designated by the Military Governor or his successor as representative of the occupying power shall succeed to the claims for restitution, under total exclusion of the State Treasury or other public bodies. Every agency shall be constituted on nomination by organizations, in Germany or outside of Germany, representing the interest of the persons belonging to the respective groups referred to in Section 3, Par. II. The property or its proceeds shall be used exclusively for purposes of rehabilitation and resettlement of persons belonging to the group of which the rightful owner was a member."

Reference is also made to Section 50 of this draft.

#### D. Section 9.

This section is tending to restrict restitution beyond the limits set in Sections 2 and 3 by excluding from the provisions of the law cases of "eminent domain". It must be stressed that the right of eminent domain (Enteignung) in Nazi Germany was very extensive. Thus a large number of Jewish confiscated properties will fall under the provision of Section 9, and will not be restituted to the rightful owner. In most cases, however, they were expropriated and assigned for purposes dealt with in Section 9 just because they had been previously confiscated and for no other reason. It therefore cannot be claimed that they would have been expropriated for public purposes, even if they had not belonged to a discriminated person. Furthermore, when a property is expropriated for public use, full compensation is generally paid (such compensation was not paid the Jews) and the owner is in a position to acquire other assets of similar kind, which was made impossible for persecutees. Should Section 9 be maintained, the Jewish owner would not only lose the property, but also be deprived of the possibility of getting compensation which every other owner received in such cases since this law does not provide for the payment thereof.

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It is, therefore, suggested that Section 9 should be dropped altogether or should be replaced by the following provision:

"Confiscated property which after the time of confiscation was expropriated or assigned to an enterprise which has the right of eminent domain shall not be subject to restitution in natura insofar as the property is still necessary for such purposes. The holder of the property is, however, required to pay the owner the present value of the object or, at the election of the claimant, to substitute for it a property of equal value or similar nature."

Substitution should not be difficult in view of the multitude of properties falling under the provisions of Military Law No. 52 and the denazification law. Substitution is in fact provided for in Section 12, Par. I of the draft.

E. Section 10 - Par. I of Section 10 should be amended to exclude from the protection it accords those possessors who cannot show that they knew or could not have known the nature of the goods as "confiscated" in the meaning of this law. Section 4 (2) of the Czech restitution decree requires actually that personal property be acquired in good faith in order to have it exempt from restitution.

The limitation of the second sentence to those articles that did not come from private ownership or had not been designated for sale would exclude dealers from the benefit of the law. There is no valid reason for this proviso since it affects highly identifiable properties whose acquirer in almost all cases must have known their source as "confiscated" goods.

There is no reason to deal with "intangible interests" in a way more favorable to the acquirer than of other properties, as these interests are not of the nature of small objects changing hands easily. As more fully shown in the comments on Section 11, securities are so large a part of the confiscated wealth, that it is essential that Section 10 should not apply to intangibles.

It is, therefore, suggested to delete Par. II and to eliminate from Par. I, second sentence, the words "so far as such property came from private ownership or had not been designated for sale". It is furthermore suggested to amend the first sentence of this Section so as to read as follows:

"Tangible personal property which has been acquired by the present holder or his predecessor in interest in the course of ordinary and usual business transactions in an establishment normally dealing in that type of property shall not be subject to restitution, unless the present holder knows or must have known the origin of the property."

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F. Section 11

It is very difficult to prove the fact of knowledge. Therefore, the German law (Section 142 and others) treats equally Kennen and Kennen muessen (to know and must have known). It is therefore suggested that Section 11 be amended to replace the word "Unkenntnis" with "der Erwerber beweist dass er den die Entziehung darstellenden Sachverhalt weder Kannte noch Kennen musste".

Even such a provision would not meet the problem. This Section deals with a very important matter, as a great part of the wealth of a modern nation is expressed in bearer documents. Should such documents be exempt from restitution, the persecutees will lose a large portion of the fortune. There can be no doubt that, in many cases at least, the acquirer knew or could know the origin of such documents. We would, therefore, suggest that the words "bearer documents" be deleted from this Section. Furthermore, it has to be considered that a large number of shares of commercial and industrial enterprises were issued in Germany "on the bearer". Should "bearer instruments" include shares, their restitution will become impossible. It is legally very difficult to distinguish between ownership in a corporation and in shares. In addition, in most cases, the acquirer must have known the origin of the shares. This is the reason why shares on the bearer must be treated differently from other bearer certificates. The rightful ownership in such shares might, for instance, be established from the records of the companies meetings. The Greek law No. 808/45 provides in Section 8 that "as legal owner of shares on the bearer...is considered the one who appeared as such in the last general assembly, except if the subsequent possessor of these shares proves judicially that he acquired their ownership in a legal way".

It is therefore, suggested that Section 11 read as follows:

"Money shall not be subject to restitution unless the present holder knew or must have known of the confiscation."

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G. Section 12

Par. I treats of property which underwent fundamental changes considerably enhancing the value. There are, however, other cases of changes which decreased the value. It is not evident why an exception from restitution should be made only in favor of the present holder while the interests of the rightful owner are not considered at all. There is no valid reason for the whole paragraph since already under Section 21 the owner has to compensate the possessor for expenditures. This will account for the changes which are dealt with in this Section. It is, therefore, suggested that the whole paragraph (together with Par. III) be eliminated, especially since the really important cases are dealt with in Par. II.

H. Section 13

The provisions of this Section seem to be inconsistent with the principles as established under Section 12. We therefore recommend that this Section be rewritten so as to reflect an approach similar to Section 12 as drafted and with such amendments as outlined above.

I. Section 14

The provision of this Section as formulated in the draft of September 23 was very appropriate. There appears to be no reason for eliminating this proviso, one of the few favorable to the claimant. The words "as far as possible" grant sufficient guarantees that nothing impossible could be required under this Section.

J. Sections 16-22

(1) This chapter deals (in addition to the accounting resulting from the possession by a third person) with several cases of damages in case of the impossibility to restore the property. The draft provides for such payment in exceptional cases only, leaving out the entire complex of those transactions which are being dealt with in Section 3a. Even when personal responsibility is established, there is no guarantee that these losses will actually be recovered by the claimant. We feel that it must be agreed that all such

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losses, are the result of the discriminatory practices of the Nazi regime and have to be borne by Germany. It is, therefore, suggested that the Laender and/or any higher German authority when established (as the successors of the Reich) be made responsible for all damage not covered by individuals. The principle of governmental liability, or co-liability, to make compensation should not be construed to cast the liability of the individual possessor of the property any more than governmental liability to make restitution should be a bar to the assertion of individual liability in that regard. It should be left to the government, however, to determine to what extent after the individual has made compensation to the claimant it will make good the respondent's loss or, if the government itself compensates the claimant, whether it will exonerate the individual respondent from sharing the burden. Furthermore, a multitude of properties formerly belonging to the Reich, Nazi Party, individual Nazis, etc., are at present in the administration of the military authorities and German authorities which properties could very well be used to substitute for restitution when the object is not available (a similar proviso is contained in Section 34 of the Dutch decree of September 19, 1944). It is, therefore, suggested that this Chapter be supplemented by the following proviso:

"The damages resulting from ~~confiscation~~, insofar as they are not recovered in accordance with this law will be indemnified by the Land in whose territory the loss occurred, and/or by any higher German authority when established.

The claimant may demand that, instead of monetary payment, an object similar to the one which was confiscated, be delivered to him by Land out of properties in the administration of public authorities located within this Land."

In addition, an explicit reservation should be inserted in this law that it does not prejudice the right to claim reparation and indemnification for losses not granted by this law.

K. Section 16

This section does not adequately cover the cases in which the property was destroyed only partly or in successive stages in more than one Land. We propose, therefore, to amend Section 16 as follows (amendment underlined):

"If the claimant cannot regain the confiscated property, or if he can regain it only diminished in value, or only part of it, (oder nur in verringerten Ausmaße oder Werte), he may demand from any previous possessor of the confiscated property or holder of a confiscated interest the surrender of whatever substitute, or the assignment of whatever claim, such possessor or holder may have obtained through the circumstances which prevent restitution in full."

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By W.H. NARA Date 3/20/00RG 856 59Entry 1074 550371File POSITION: German ExternalBox 6

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**L. Section 17**

This section should be amended to impose a joint and several responsibility on all the persons involved in the acts on which liability is premised.

**M. Section 18**

The first paragraph deals, as does Section 11, with "knowledge of confiscation." For reasons given there it should be amended to read "proves that he had no knowledge or could not have known" (this refers also to Sections 19 and 20). Furthermore, it is not evident why a person who knew or should have known the origin of the property, shall be liable for the "impossibility of returning the property or because of its deterioration" only where he has been negligent. He acquired it despite this knowledge and has, therefore, to be responsible for the objective loss suffered during the time that the property was not in the possession of the owner. There can be no valid ground to charge the owner with a loss which occurred during the time in which he was dispossessed of the property.

It should be stated here, as well as in all cases of multitude of respondents, that they are jointly and severally responsible for damages.

**N. Section 19**

It is not evident why a possessor in bad faith should be paid for "the management" and "interest on the purchase price." He acquired the property and interest at his own risk. To pay for management and interest would be to pay a premium or requisitions in bad faith. We do not suggest provisions as far-reaching as included in the restitution laws of other countries (see for instance, Section 4 (3) of the French decree of April 21, 1945; Section 4 (3) of the Polish law of March 6, 1945; Section 5 of the Bulgarian restitution law) which simply provide for the restitution of all income received, even with regard to bona fide possessors.

**O. Section 21**

Par. IV should be extended to cover the cases provided for in Section 19 (i.e. where the possessor knew or must have known the origin). This rule would be in accordance with Sections 990 and 994 of the German Civil Code.

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By <u>WPAI</u>	Entry <u>2014 550371</u>
NARA Date <u>3/28/00</u>	File <u>POSITIONS; GOVERNMENT</u>

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Entry	<u>2014 550371</u>
File	<u>POSITIONS; GOVERNMENT</u>
Box	<u>6</u>

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P. Section 23

It must be considered that liabilities created after dispossession were contracted for the benefit of the possessor and there can be no reason to burden the claimant with them, who did not and could not have profited from them in any way. Even if the aggregate of charges will remain the same, the owner will be at a disadvantage, if - as it is usually done - the debts are repaid from the income of the property. If the value of the property was raised, it will, in many cases, be due to purely monetary developments, namely devaluation of the currency, and will, as a purely nominal increase in value, disappear as soon as the currency is stabilized. For the above reasons, it is suggested to follow the example of other restitution laws (for instance, Section 1 (3) of the Austrian Erstes Rueckstellungsgezetz, Section 6 of the Romanian law of July 30, 1945; Sections 2 and 13 of the Norwegian law of December 18, 1942, and the decree No. 15/1945, respectively; Section 9 of the aforementioned French decree; Section 2 (2) of the Yugoslav decree of May 24, 1945) and to declare all liabilities created after dispossession not binding upon the rightful owner. This proviso is the more just as the person in whose favor the easement was created must have known, in almost all instances, the origin of the property from the inscriptions in the Land or Commercial Register. Taxes and public charges are part of the expenditures and have to be borne by the possessor.

The new version of this Section is particularly unfortunate in view of the fact that the limitation of charges corresponding to the depreciation in the value of the confiscated property has been dropped. On the other hand, the Section still retains the provision that the limitation of charges shall be raised to the extent of the increased value of the property. It is overlooked that the original owner could have, first, paid off the charges through the income of the property; second, that the increase in value of the property, as stated above, may often be based largely on devaluation of the mark.

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In an inflationary situation this provision may be disastrous to the claimant especially since the increased value is likely to be fictitious and accompanied by no corresponding increase in income, if indeed income does not vanish altogether because of the German economic situation and the special difficulties of the claimant's situation. The provisions of the draft will furthermore enable a possessor to burden the property to the hilt with such charges right now or even after promulgation of the law, taking advantage of the formal increase in value of the property, all these increases being made for the benefit of the present possessor solely.

Equally, it should be made clear that leases and other obligations entered into by the possessor are binding upon the rightful owner for a brief period only. Otherwise, the rightful owner could be deprived of the use of the property by means of wrongful leases and other contracts. Voidness of such obligations is the logical consequence of the fact that the transfer of the property is null or void. Section 1 (3) of the Austrian Erstes Rueckstellungsgesetz and Section 2 of the aforementioned Italian-decree law contain a provision to this effect.

Q. Section 28

Par. I of this Section should be changed to conform with the proposed new version of Section 23, i.e., the second sentence should be eliminated. The first sentence should be changed to provide that the owner has to repay only that part of the consideration received of which he could actually freely dispose. It must be stressed that very often the consideration received was taken away by the State through various discriminatory taxes and levies (Reichsfluchtsteuer, Judenabgabe, etc.), or seized or blocked subsequently. Such a proviso is actually contained in Section 6 of the aforementioned French decree. Many restitution laws totally eliminate the repayment of the price received, as for instance Section 3 of the Luxembourg decree of April 22, 1941; Section 3 of the Belgian decree of January 4, 1941; Section 3 of the Norwegian decree No.15/1945. Should repayment be <sup>made</sup> obligatory, we would propose to amend Par. 3 by inserting, after the first sentence, the words:

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By WV NARA Date 3/22/00RG 22-89Entry 6214 550371File Restitution: GermanyBox 6

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"Insoweit der Erwerber aus der empfangenen Gegenleistung Zahlungen auf Grund der in Artikel 1 genannten Gesetze und Massnahmen zu leisten hatte, wie zum Beispiel Reichsfluchtsteuer oder Judenvermögensabgabe wird angenommen dass er ueber die Gegenleistung nicht frei verfügen konnte."

#### R. Section 30

Par. I should be amended so as to make easy repayment obligatory instead of discretionary with the Court.

In Par. II payment of interest should be eliminated, at least in cases of duress and knowledge of confiscation.

#### S. Section 31

Although the second paragraph contains useful elements for alleviating the difficulties involved in the loss of documentary evidence through emigration, deportation and otherwise, it is by no means sufficient to cope with them. Other restitution laws (Section 26 of the Polish law, Section 13 (2) of the Romanian law) recognize the impossibility of furnishing formal proofs and permit all means of probation provided in civil law. Since German laws admit affidavits (eidesstattliche Versicherung) as evidence, it is suggested that the second paragraph be amended to read:

"In ascertaining the facts of the case, the Restitution Agency and the Court shall admit in all cases, as evidence on the part of the claimant all means of probation, including affidavits by the claimant himself."

#### T. Section 38

The last paragraph creates the possibility of filing tort claims in ordinary courts but does not state within what period, i.e., whether the ordinary period of statutes of limitations starts with the publication of this law and within what time the claim has to be filed. It is also unclear whether these cases of tort are those provided for in Section 16ff or those not covered by these paragraphs.

It is, therefore, suggested to stipulate explicitly that Par. III refers to claims not covered by preceding Sections and the period of limitations starts with the publication of the law.

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U. Section 44

The draft provides for the jurisdiction of German courts in all cases of restitution. This is obviously not appropriate since most of the claimants forced out of Germany (the number of Jewish residents in Germany today is insignificant) have meanwhile become foreigners and citizens of foreign countries. As things are now and will continue to be, German judges cannot be expected to be impartial in claims of Jews against fellow-Germans and German authorities. It is therefore suggested to make restitution claims subject to special judicial bodies to be constituted as follows:

"All claims in the first instance should be presented to a mixed restitution commission, appointed by OMGUS, consisting of an American chairman and a judge designated by the Ministry of Justice, and a representative of the group or race to which the claimant belongs under the definition in paragraph 2 of Section 3. The same basis of selection shall govern the composition of the Appellate Court."

Another example of machinery appropriate to give effect to the underlying principle above noted would be to use the method employed in Sections 47 and 65 of the present draft for the selection of the members of the Court of first instance, but to use for the Appellate Court two members selected by military government, two members selected from the race or class of which the claimant is a member and one selected by the State Minister of Justice; the Appellate Court to have power to review the case as to both facts and law and to make a decision on the case de novo.

We believe that under the provisions of Section 43 of the present draft, it will be possible to cut down to a large extent the number of cases which will come before the courts.

V. Section 48

(1) It is very difficult to decide upon such contentious matters as restitution of property and ancillary damages in the procedure provided for non-contentious litigation (freiwillige Gerichtsbarkeit). It would be more appropriate, therefore, to follow the example of other restitution laws (for instance, the French, the Polish, the Romanian) and use the usual procedure established for contentious litigation (strittige Gerichtsbarkeit) with such modifications as will insure a fair but more speedy procedure.

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(2) Considering the fact that a great many claimants under this law are presently residing outside of Germany and the number of qualified attorneys in Germany who would command the confidence of such claimants is rather limited, it is suggested to add to Section 48 the following provision:

"Persons who on January 30, 1933 were admitted to practice of law in Germany and belong to groups of persons named in Section 3, shall be entitled to represent claimants before the Restitution Agency and the court regardless of their present residence and nationality."

#### W. Section 49

The Appellate Court should be constituted similarly to the proposal advanced above for the court of the first instance, namely, it should consist of two members appointed by the military authorities, two by the group to which the victim belongs and one by the Land. This body should decide on questions of law and fact and render decisions de novo. Even if it should appear that there would not be sufficient American judges for the courts of the first instance, there will be enough for the second instance, whose number could not be large.

#### X. Section 50

For obvious reasons, it would be appropriate to centralize the matter dealt with in this Section in the hands of one authority. Instead of vesting the claims in the Public Prosecutor, they should be vested directly in the Agency referred to in Section 6, which will have the special knowledge and personnel required for this task. Furthermore, we consider it undesirable to delay such claims until the period for filing claims has expired, since the properties will meanwhile remain in such case in the hands of the possessors and may be dissipated or devaluated.

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It appears more appropriate to authorize the Agency to file such claims after a period of from 3 to 6 months from the day the law became effective.

The second sentence is very vague and may lead to abandonment of claims as "the presumed intention" can be interpreted at will.

We therefore suggest that Section 50 be amended to read as follows:

"In case a restitution claim is not filed within the period of three months from the effective date of this law, the claim shall be automatically vested in the Agency referred to in Section 6. If a properly recognized claimant should appear at a later date, he may assume the claim in his own name or receive the restituted property or its proceeds from the Agency."

#### Y. Section 52

This Section charges the claimant with court fees and expenses. Since all claims to be submitted on the basis of the law are the consequences of confiscatory and other measures of the German Reich, it is unjust to require the dispossessed owner to pay for it. Par. IV providing for the right of the court to cancel costs is not sufficient. Other restitution laws have recognized this and have established a cost-free procedure (see, for instance, Section 30 of the Polish, Section 30 of the Romanian, Section 24 of the French, Section 11 of the Italian law of January 20, 1944).

#### Z. Section 53

The obligation to report should be imposed not only on present and former possessors, but (in accordance with Section 54) also on all persons who have knowledge of confiscated properties. Otherwise many cases of confiscated properties may remain uncovered.

#### A (1) Section 59

Section 1954 of the Civil Code referred to in Par. II provides for a six-week period within which the claim may be made. In connection with Section 58 all such claims would have to be submitted within six weeks from the effective date of the law, which is obviously too short a period under existing conditions. Since the proviso in Section 39 refers to restitution claims only, this Section should contain an explicit stipulation to the same effect.

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**B (1) Section 63**

This Section is, in its present wording, very inappropriate since it enumerates only two kinds of claims reserved for subsequent legislation. This could be interpreted as excluding other claims not mentioned therein as, for instance, discriminatory levies, damage in consequence of forced conversion and many others. Furthermore, it should be understood that the provisions of this law are not meant to exclude the use of state and Nazi properties for losses sustained by persons referred to under Section 1 of this law.

We therefore propose to add to Section 63 the following paragraph:

"The provisions of this law shall not be deemed to be prejudicial to further claims under existing law. Future legislation shall provide for reparation for and indemnification of losses not compensated for under this law."

**C (1) Section 64**

The suggestions referred to in Section 44 (composition of the courts) are valid also for this Section, since the persecutees can place no more trust in administrative German courts than in others. It is, therefore, suggested that this Section should be amended to read that claims under public law are to be decided by the same courts as stated above under Section 44.

**D (1) Section 66**

It is expected that at a certain date special levies on properties and capital may be introduced to cover the amounts necessary for the payment of war damages or for similar reasons. It would be totally unjust to burden the owners of "confiscated" properties with these taxes, since they have suffered enough damage and were no part of the German community which waged the war. A similar provision is included in the peace treaties with the former satellites.

It is, therefore, suggested to supplement Section 66 by a third paragraph reading as follows:

"Properties falling under this law and payments recovered thereunder shall not be subject to any kind of special taxes to be introduced in the future by Germany, the Laender or other public bodies, be it for the purpose of compensating war damage, paying reparation or similar claims."

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POST

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.) 1946

AG CABLE CONTROL

DATED 0200 1946

021859B OCT 46  
287/02 endINCOMING MESSAGE  
**CONFIDENTIAL**

P R I O R I T Y

FROM : AGWAR FROM WDSCA ES  
TO : OMGUS  
REF NO : WX-82011

POLITICAL DIVISION

OCT 3 1946

Reurads Sept CC-3749, Sept CC-4013, Sept  
CC-4170.

Restitution to ex-enemy countries is sub-

Fol is text note delivered by Hilldring  
to representative of French Embassy re urads above.

"My govt noted with regret that French representative on Coordinating Committee Allied Control auth for Germany has not been willing discuss US proposal providing limited restitution to Austria, Hungary, Rumania, Italy and Finland. Am informed that rep UK accepted US proposal in entirety and Soviet Rep agreed in principle but as result French unwillingness discuss question, UK paper tabled for period one month."

"My govt consider question restitution countries names as considerable importance both politically and economically and, within limits prescribed by US proposal, as entirely equitable in prin. This govt understands French Govt's unwillingness discuss question based on view subj is more appropriate for inclusion peace treaties currently being discussed Paris. In view importance property involved to countries concerned, however, and uncertain date on entry into force peace treaties, it is hoped your govt will find it possible issue instructions French Representative Berlin which will permit Coordinating Committee to reach quadripartite agreement this subj."

ACC IN 38251

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

Exempt from automatic classification. Handle in compliance with AR 380-5.

Ref 3

**CONFIDENTIAL**

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File 400B  
Box 53

REF NO

WX-82011 C O N F I D E N T I A L

Mildring believes it probable that French Government will issue instructions French Member Coordinating Committee in line with US request. Pending French reaction this approach and results your efforts obtain quadripartite amendment Apr 17 decision in line this govt's attitude toward restitution, you should take all preliminary steps in order to be in position to commence deliveries without delay in event of quadripartite agreement or to proceed unilaterally if early agreement should appear impossible. Agree with position taken CC4170 regarding "token flow" of restitution to Hungary. Please advise details regarding preliminary stages which have been taken to begin restitution deliveries.

CC-3749 16 Sept 46 Econ.  
CC-4013 20 Sept 46 DMG  
CC-4170 22 Sept 46 DMG

ACTION : ECON

SUSPENSE: 5 OCT 46

INFORMATION : O/SS-C/S  
POL AFF  
FIN  
LEGAL

AGC IN 38251 3 Oct 46 1030B CB/ehd REF NO:WX-82011

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

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Authority NND 765011  
By WDP NARA Date 3/25/00KG 84  
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## OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

AG CABLES



REF NO. WX-85682



INCOMING MESSAGE

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- 3 -

WX-85965, AGC-IN-15174, 3 Dec 45, Info  
WX-99226, AGC-IN-22212, 8 Mar 46, Info

## INFORMATION:

O/SS-C/S  
 IA & C  
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 POL AFF  
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AGC IN 41877

20 Nov 46

EM/wea

REF NO: WX-85682

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Copy No. 31

A Memorandum Drafted by the State, War and Treasury Departments, Approved by the President, dated March 23, 1945.

#### TREATMENT OF GERMANY IN THE INITIAL POST-DEFEAT PERIOD

The authority of the Control Council to formulate policy with respect to matters affecting Germany as a whole shall be paramount and its agreed policies shall be carried out in each zone by the zone commander. In the absence of such agreed policies, and in matters exclusively affecting his own zone, the zone commander will exercise his authority in accordance with directives received from his own government.

The administration of affairs in Germany should be directed toward the decentralization of the political structure and the development of local responsibility. The German economy shall also be decentralized, except that to the minimum extent required for carrying out the purposes set forth herein, the Control Council may permit or establish central control of (a) essential national public services such as railroads, communications and power (b) finance and foreign affairs and (c) production and distribution of essential commodities. There shall be equitable distribution of such commodities between the several zones.

Germany's ruthless warfare and fanatical Nazi resistance have destroyed German economy and made chaos and suffering inevitable. The Germans cannot escape responsibility for what they have brought upon themselves.

Controls may be imposed upon the German economy only as may be necessary (a) to carry out programs of industrial disarmament and demilitarization, reparations and of relief for liberated areas as prescribed by appropriate higher authority and (b) to assure the production and maintenance of goods and services required to meet the needs of the occupying forces and displaced persons in Germany and essential to prevent starvation or such disease or civil unrest as would endanger the occupying forces. No action shall be taken in execution of the reparations program or otherwise which would tend to support basic living standards in Germany on a higher level than that existing in any one of the ~~not~~ neighboring United Nations. All economic and financial international transactions including exports and imports shall be controlled with the aim of preventing Germany from developing a war potential and of achieving the other objectives named herein. The first charge on all approved exports for reparations or otherwise shall be a sum necessary to pay for imports. No extension of credit to Germany or Germans by any foreign person or government shall be permitted except that the Control Council may in special emergencies grant such permission. Recurrent reparations should not by their form or amount require the rehabilitation or development of German economy.

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In the imposition and maintenance of economic controls German authorities will to the fullest extent practicable be ordered to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls and for any breakdown in those controls will rest with themselves and their own authorities.

The Nazi Party and its affiliated and supervised organizations and all Nazi public institutions shall be dissolved and their revival prevented. Nazi and militaristic activity or propaganda in any form shall be prevented.

There shall be established a coordinated system of control over German education designed completely to eliminate Nazi and militarist doctrines and to make possible the development of democratic ideas.

Nazi laws which provide the basis of the Hitler regime or which establish discriminations on grounds of race, creed or political opinion shall be abolished.

All members of the Nazi Party who have been more than nominal participants in its activities and all other persons hostile to Allied purposes will be removed from public office and from positions of responsibility in private enterprise.

War criminals and those who have participated in planning or carrying out Nazi enterprise involving or resulting in atrocities or war crimes shall be arrested, brought to trial and punished. Nazi leaders and influential Nazi supporters and any other persons dangerous to the occupation or its objectives shall be arrested and interned.

A suitable program for the restitution of property looted by Germans shall be carried out promptly.

The German armed forces including the general staff and all para-military organizations shall be promptly demobilized and disbanded in such a manner as permanently to prevent their revival or reorganization.

The German war potential shall be destroyed. As part of the program to attain this objective all implements of war and all specialized facilities for the production of armaments shall be seized or destroyed. The maintenance and production of all aircraft and implements of war shall be prevented.

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