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Classified Gen'l Recs
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Brussels, August 30, 1946

Respected

No: 440

Subject: Lotted Securities Program

The Honorable
The Secretary of State
Washington

Sir:

I have the honor to refer to Department's telegram No. 949 of August 23, marked "From Embassy" and advising that the Belgian government desired to participate in the Lotted Securities Program. It would submit its list of securities by September 10. Brussels telegram No. 1069 dated August 27 advised that Belgium did desire to participate and would submit its list by September 10.

By letter from the Institut Belge de Remboursement en charge dated August 29, 1946, over the signature of Maurice Peve, there was submitted to this Embassy two lists labeled A and B, of American securities or securities listed in American dollars, and also were described by the accompanying letter as kinds of securities which have been the object of Belgium's speculation on the part of the enemy.

These two lists are being enclosed for transmission to the Treasury Department.

Respectfully yours,

For the Ambassador

R. C. MARSH
Economic Counselor

Enclosures - as mentioned above.

To the Dept. in original only (closed)

MEMORAN/100

X 711.6 Lotted property/securities
see file 102.1 Treasury for copy (1946)

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 By D NARA Date 6/4/99

RG 260

Box 166

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Reparations

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PROPOSED CABLE TO ACWAR

**SUBJECT: Compensation for Allied Property Removed as
 Reparations - Refer your W-39222.**

1. In preliminary discussion the Soviet has indicated that removals from the Eastern Zone have not followed the agreed procedure to remove as reparations property owned by Germans and neutrals before removing property of Allied nationals. Soviet will oppose special treatment of foreign property.

2. Additionally, French have introduced into quadripartite machinery, where it is now stalled on technicality, paper on protection of Allied property located in Germany, CORC/P(46)206, dated 11 June 1946. Summary follows:

a. Control Council seeking elimination of German war potential as well as payment of reparations to Germany's victims.

b. To determine minimum economic capacity to be left Germany, consider all property actually in German economy, except stolen property, irrespective of owner's nationality.

c. When choosing plants to be retained in Germany, those belonging wholly or over 49% to foreigners, particularly Allied, should remain if possible. Those interests less than 49% should be individually considered by R&R Directorate. Otherwise, reparations actually paid by United Nations nationals rather than Germans.

d. For disarmament or other reasons, Allied owned plants in prohibited or limited industries may have to be removed in accordance with plan approved by Control Council.

"In all other cases, Allied property in Germany is entitled to absolute and unreserved protection."

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e. In allocating these Allied properties nevertheless subject to reparation, owning nation should have first claim.

f. If according to above principle not possible to retain plant owned by United Nation, that nation should be able to claim compensation from German people. Control Council should grant just and full compensation to be borne by German economy.

g. Insofar as possible this compensation should be in form of equivalent holdings in German firms of similar nature.

3. Our feeling that reparations questions raised above form only inseparable aspect of whole problem of treatment of Allied properties in Germany, which must now be clarified. Following our reaction to French paper, showing what we believe to be implications:

a. We should accept French position in subparas 2c and 2d above, if only as bargaining point from which to push protests on individual cases of Soviet removals of Allied property from Soviet Zone. However, we should not accept theory that otherwise reparations actually paid by United Nations nationals instead of Germans, for reasons given in para 4 below.

b. Point summarized subpara 2e above will be difficult to administer and violates principle of distribution of reparations according to relative needs of receiving countries. It is of little or no practical value to United States. It carries implication of special--almost extraterritorial--status of individual Allied properties to which we object in para 4 below.

c. Idea summarized in subpara 2f above requires Control Council to arrange special compensation for Allied properties taken as reparations. Our position is that compensation commensurate with Germany's real ability to pay should be afforded internally to all owners of property taken as reparations. If this can be established there is no need for special compensation to Allied owners unless (1) such compensation is

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to be at rate beyond real resources of Germany, which would lead to inflation and no real gain to beneficiary, or (2) Allied owners are to be compensated to greater extent than, and at expense of, compensation possible for German owners. This would be politically unwise and unjust, as is pointed out in para 4 below.

d. Subpara 2g above requires that private property be confiscated from Germans for purpose of compensating Allied owners of properties taken as reparations. Seizure of German properties for this purpose would place us in highly embarrassing moral dilemma. We would be using our position as occupying power for economic benefit of our own nationals, and might expect stellar role at future war crimes trials. We would furthermore be officially engaged in building up vested foreign interests in German economy, which would run to us for innumerable additional special privileges. As we know, Allied interests in German economy not only helped force premature end to Allied controls after last war, but were used as tools of Nazis in appeasement campaigns leading to this war. American firms with properties in Germany not excepted from above statement. Our automobile firms for example were induced by Nazis to use worldwide sales organization supported by patent firm to dump and barter their German subsidiary's products in Latin America and other fields in opposition to United States reciprocal trade program, and sales of their own American made cars for dollars. While in interests of American property rights we will not tolerate discrimination against foreign owned firms in Germany, in interests of our objectives here we cannot afford special favors leading to artificial expansion of foreign position in German economy.

4. As a whole, French paper can be considered as attempt to open frontiers of Germany to a host of carpet baggers. What

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few advantages United States citizens could secure if we joined in logrolling cannot compare in dollars and cents to additional cost to United States Treasury. Since Germany cannot even afford to pay for her vital needs, let alone pay for the services of foreign business men, whatever money is made by foreigners in Germany in the next five years will be directly or indirectly an addition to the amount coming out of the pockets of the occupying governments. The granting of a special position to foreign properties is an open announcement that private interests may share with or ahead of legitimate government interests. Allied properties in Germany have been treated de facto and de jure as part of the domestic economy for over 15 years. Since little or no proceeds went to foreign owners, and all profits had to be reinvested in Germany, formal recognition of property rights has been a farce. Foreign owners have succeeded in accommodating to this situation. Under German control, they shared in extraordinary prosperity of rearmament and war. As direct result of rearmament and war profits, value of their holdings has multiplied. IT&T, for example, purchased substantial share in Focke-Wulf out of Reichmark profits earned up to 1938 alone. Simple justice and common sense require that having shared in the boom they may not escape the collapse.

5. We are seeking quadripartite agreement on compensation for reparations deliveries as part of general financial house-cleaning. Allied owners would receive Reichmark compensation on same terms as Germans, and would be subject to same rules, including war loss and war profits equalization taxes. Since accounts of German subsidiaries of foreign firms will no longer be blocked when control of owner has been re-established, compensation could be used for purchase through free bargaining of replacements for old properties. In this they would be on equal terms with German losers. Since full compensation of foreign owners would leave little or nothing in impoverished Germany

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for compensation of German owners, they must expect some real losses, which their governments may or may not decide to make up out of German reparations payments as part of losses arising from war. The same would apply of course to war damage to German properties of foreigners. Individuals of neutral countries who chose to invest in Germany must also accept the consequences of their decision, and will of course furthermore have no claim on reparations.

6. As under former German foreign exchange laws and under foreign exchange controls of most other countries, persons who have invested in Germany would eventually be permitted utmost latitude in deciding form their investment should take. If, for example, they should decide to switch from holding of bank deposits to ownership of a particular factory, or of corporate shares, this would not be considered a new investment, but rather a change in the terms of an existing investment. In free competition with indigenous entrepreneurs, the favorable or unfavorable results of their decision would depend on their own abilities. On the average, assuming gains and losses of foreigners to balance, the percentage of real foreign investment to total real investment in Germany should remain the same, with both foreign and domestic absolute property in Germany reduced equally by the exigencies of war. We consider free enterprise the best guarantee against either an unwarranted increase in foreign ownership in Germany or an unfair discrimination against foreign property rights.

7. Concerning United States citizens we suggest that the only authorization or permission necessary for the purchase of property with Reichmark funds available in Germany be a Treasury license under Trading with Enemy Act. In order to ensure avoidance of any use of such authorizations for pressure

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on Germans in bargaining further, suggest that these authorizations be in blanket form, applicable to all holders of licenses to claim and supervise properties located in Germany. In present situation immediate issuance of such a blanket authorization would be academic rather than significant, since compensation has not been arranged and currency situation makes likelihood of bona fide sale for Reichmarks small. It might complicate our problem of providing facilities for United States businessmen. However, we have no objections in principle.

2. We believe above scheme fair and in best interests of all concerned. Our interpretation of reference cable is that in general it suggests above procedure. We request your confirmation of this view as American position with reference to French paper referred to in para 2 above.

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12 September 1946

SUBJECT: Compensation for Allied Property Removed as
 Reparations.

TO : Acting Deputy Director, Economics Division, Office
 of Military Government for Germany (U.S.), APO 742,
 U. S. Army

1. The cable proposed by the Economics Division (Tab 1)
 appears to have certain internal inconsistencies:

a. Numbered subparagraph (1) proposes compensation
 in Reichmarks in the case of Allied majority interest of 51%
 and over in properties taken as reparations.

b. Numbered subparagraph (2) states that foreign
 minority interests of 50% and under shall be regarded as German.
 It is the U. S. position that the owners of all properties con-
 fiscated for reparations shall be compensated eventually in
 Reichmarks to some undetermined extent, under a war loss equal-
 ization program. Therefore, there seems to be no necessity for
 any distinction to be drawn between properties on the basis of
 the percentage of Allied ownership. The proposed cable, how-
 ever, merely states that the distinction will be made, without
 explaining what practical effect it is intended to have.

c. Numbered subparagraph (3) states that AMGUS be-
 lieves it sound policy to limit total overall foreign ownership
 to 50% of any industry in order that foreign ownership may not
 predominate. In practice where Allied investments amount to
 more than 50% of a German industry (as is the case for Singer
 sewing machines), this subparagraph conflicts with the an-
 nounced intention of subparagraph 1, to provide full Reichmark
 compensation for losses incurred as a result of reparations
 removals, and to permit purchases of property in the same
 industry to the extent necessary to re-establish prewar percent-
 age shares.

2. Furthermore, the announced intention of subparagraph
 (3) would be defeated by the effect of subparagraph (1). The
 only permanently effective limitation on foreign predominance
 in German industry would be one imposed by economic factors,
 particularly that of the competition of German-owned enter-
 prises. For example, in the particular case mentioned, that
 of the sewing machine industry, the Singer Company has been

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**Subject: Compensation for Allied Property Removed as
Reparations,**

PD, 18 Sept. 46

unable to secure the agreement of its former German competitor to the purchase of the latter's plant. The granting of any special permission by Military Government to the Singer Company would undoubtedly exercise a certain amount of moral suasion on the German competitor likely under prewar conditions to influence it to capitulate.

3. As a minor criticism, it may be noted that the percentage figure adopted at the Paris Conference on Reparations (See extract from Annex to the Final Act of the Paris Conference on Reparations at (Tab 8)), as defining a substantial Allied interest in German properties, was 48% rather than 51%. It is understood that this was done at the insistence of the United States, and was intended to apply by analogy to certain Allied properties in Balkan countries now occupied by Soviet troops. It is not felt that there is any good reason for weakening this precedent at present. Military Government should remain aloof from the efforts of foreign firms to entrench themselves in Germany while the entrenching is good. While it need not actively discourage these efforts, since present conditions and regulations offer discouragement enough, it certainly should not offer them either assistance or moral support likely to give them an advantage over their struggling German competitors. The Finance Division feels that the present complicated situation requires a simple solution, as a minimum, equal treatment for the unequally matched foreign and indigenous business firms.

4. Because of the above inconsistencies it is felt that the present draft may do more harm than good. On the other hand, the need for a clear presentation of the problems involved to the War Department is readily admitted by the Finance Division. This need has become even more urgent since the introduction of a French paper on the subject into the quadripartite machinery. (Tab 7) It is therefore proposed that the attached draft (Tab 6) be substituted for the draft submitted by the Economics Division at Tab 1.

Telephone 42127
Rm Fin. 222-224

JACK BENNETT
Director

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1 July 1946

MEMORANDUM**Re: Reparations policy as related to United Nations Nationals' Properties in Germany.**

1. The French paper in COM is based on, or at least parallels in many respects, the U.S. policy as laid down in S-37222. It proceeds from the assumption that when property belonging to United Nations Nationals in Germany is removed for reparations we are in fact taking reparations from the United Nations instead of from Germany. From this assumption the paper proceeds to lay down procedures which would provide for the removal of United Nations nationals' property only as a last resort and that even then the United Nation concerned should have the refusal of the property as a share of its reparations and that the United Nations national who owned the property should be compensated in kind or as alternatives, should be compensated in local currency with a priority right to invest in equipment remaining in Germany of the same character as was reparated or should be allocated "residuals" in Germany representing interests in properties of the same type and character.

2. The conclusion that reparation of United Nations nationals' property is placing the reparations burden on United Nations nationals is not logical. The ownership by foreign persons of plants and equipment in Germany was over a qualified sovereignty, since these foreign owners did not enjoy extraterritoriality and in fact placed their properties, by direction, under the sovereignty of the German State and in no better category than the properties owned by the Germans themselves. By this token, the property merged into the German economy and prospered or suffered with the vicissitudes of that economy. In other words, it became in an economic sense, German property, except to the extent that the German economy could afford and the German Government would permit the transference to a foreign country of either the capital investment or the income thereon. It thus followed that during the greater part of the Hitler regime foreign investors were able to receive little, if any, return on their investments in Germany, while at the same time their plants and equipment were purposefully devoted to the furtherance of the post war efforts against the United Nations. As evidence of the loss of the national character of these investments, it may be pointed out that the United States, as a sovereign power, did not feel constrained to take extraterritorial measures to recover either these investments of its nationals or the income therefrom.

3. In summary, therefore, what the foreign investor in Germany had was a right to enjoy returns on investments in Germany on the same basis as German investors were so privileged and the right to enjoy the fruits of their investments outside Germany only to the extent that Germany was able and willing to permit such enjoyment. Not too different a situation prevails today.

4. While there has been no usual or quadripartite decisions on this issue, there is little doubt that the four powers contemplate a plan for compensating, in local German currency, those persons whose investments in Germany have been lost in any one of three ways: i.e., (1) by reparations through property removal, (2) reparations through external assets seizures, and (3) war damage. In the case of war damage to United Nations nationals' property in Germany, it is reasonable to assume that the account of the owner will receive credit on the same basis as the accounts of German property owners in local currency. Unless extraterritorial consideration is given to the United Nations property holders, they would then enjoy the same re-investment privileges as the local property holders and their ability to convert their local balances into foreign accounts would be subject to the limitations of the German economy. In view of the fact that Germany is not now able to meet her foreign obligations or to pay for the essentials that are being imported and since she is nowhere near able to begin to meet her foreign claims for reparations and occupation costs, it may be assumed that it will be in the future, indeed, before she can convert foreign investments in Germany into foreign currency.

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5. There seems, therefore, to be logical basis for the assumption that distinctions should not be made in reparations cases between domestically owned property and foreign owned property since the foreign investor does not lose the investment but rather has it converted into a different form, from which form he may or may not be as able as before to convert into foreign currencies.

6. From the political standpoint there may be different considerations. In the Potsdam Declaration the Four Occupying Powers waived, on behalf of their nationals, claims to individual properties seized for reparations, and in the Paris Act on Reparations the Western Allies waived, on behalf of their nationals, in lieu of the share of reparations allocated in each instance, claims against Germany for war-connected losses. It has thus far been the U. S. policy, which I believe has been followed also by other occupying powers, not to permit additional foreign investments in Germany. It can be assumed that the motivation behind such policy is the desire to prevent there being such a degree of foreign investment in Germany as would mire the foreign interests, as contrasted with the German interests, the dominant consideration is planning future economic controls for Germany or in the enforcement of the existing controls. If such is the policy of the United States and all other occupying powers, we abandon this principle by insisting that the status quo of the foreign investments be maintained through the means suggested in the French paper or through the adoption of the suggested policy which would permit the utilization by foreign holders of their present bank balances in Germany to buy new properties so long as their aggregate of investments will not then total more than they had amounted to prior to the beginning of the war.

7. The losses in German-owned property have been on a percentage basis equally as great as, if not greater than, those of the foreign investors. To the extent, therefore, that foreign investors now are permitted to acquire in one way or another a part of the remaining German investments in Germany, the percentage of foreign investment as related to domestic investment increases at an accelerated pace. The result, therefore, is that more and more our economic controls in Germany would be applied to foreign holdings and not German holdings and would, therefore, become more difficult to impose as necessary restraining measures on Germany to insure our post-war objectives. History has demonstrated that foreign ownership of plants and equipment in Germany does not prevent their being directed against their owners, and history has equally demonstrated that the presence of foreign investments in Germany has stayed the hand that would have otherwise imposed economic or military sanctions against a warring nation. It is possible to conclude, therefore, that only political considerations within the United Nations themselves, as opposed to the international political considerations of those countries, would suggest that measures such as are proposed in the French paper should be pursued by a quadripartite body.

/s/
JACK BERRETT
Director, Finance Division

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| By | <u>SOM NARA</u> Date <u>8/27/99</u> |

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| RG | <u>260</u> |
| Entry | <u>EXTERNAL ASSETS</u> |
| File | <u>GOLD & OTHER METALS</u> |
| Box | <u>649</u> |

J. [unclear]

*Gold - silver metals
Pt Assets
Info*

1 July 1946

SUBJECT: Status Report on Assets Held in Foreign Exchange Depository

TO : Director, Finance Division, Office of Military Government
for Germany (US), APO 742, U. S. Army

1. In accordance with your request for information concerning assets held in the Foreign Exchange Depository, together with our estimate of the time required to inventory such assets, the following report is submitted: This report has been prepared from available information and records and is complete only to the extent such records permit and also to the extent of time available to investigate the records and prepare this report. The following information is classified according to the type of assets held and also shows an estimate of the time required to inventory them:

a. Gold Bullion

A total of 12,636 gold bars are held. Of this amount 8,307 bars were received from the Markers Mine; these bars weigh 113,853,523 fine grams. Items such as the Hungarian gold are included in the above total gold bar amount.

b. Silver Bullion

Silver bullion shown by existing records amounts to over 3,000,000 fine ounces. The complete inventory is not available.

c. Commercial Silver

Commercial silver shown by existing records amounts to over 3,450,000 ounces, in the form of ingots, plates, pipes, wires, shot, etc. The complete inventory is not available.

d. Other Precious Metal

There are also other metals such as 25,000 ounces of platinum, and small quantities of iridium and palladium and other platinum bars. The complete inventory is not available.

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 By SDM NARA Date 11/27/90

RG 260
 Entry External Assets
 File Gold & Other Metals
 Box 649

e. Gold Coin

There are approximately 3,700 bags of gold coin. Detailed inventory count is not available.

f. Silver Coin

There are approximately 800 bags of silver coin. Detailed inventory count is not available.

g. Currency

There are approximately 1,700 bags of currency, comprising practically all important issues. As an example there are about 200 bags of French currency totaling over two and one-half billion French Francs. The inventory of currency has been started.

h. Securities

There are about 500 bags of assorted securities. The largest class of securities in volume seems to be Columbia and Concordia shares.

i. Jewelry

This classification includes SS loot and items from other shipments, such as jewelry, watches, tableware, etc. It is contained in about 500 assorted containers, such as suitcases, sacks, and boxes. This item has not been inventoried.

j. Other Assets

This classification consists of other items such as: 150,000 carats of industrial diamonds, engraving plates, some cultural objects, some rare coins.

2. The following is an estimate of time required to inventory the above items:

| <u>Classification</u> | <u>No. of Weeks</u> |
|-------------------------|---------------------|
| a. Gold Bullion | None |
| b. Silver Bullion | 4 weeks |
| c. Commercial Silver | 4 weeks |
| d. Other precious metal | 1 week |

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| By | SOM NARA Date 8/27/90 |

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| RG | 260 |
| Entry | EXTERNAL ASSETS |
| File | GOLD-SILVER METALS |
| Box | 649 |

| <u>Classification</u> | <u>No. of Weeks</u> |
|-----------------------|---------------------|
| e. Gold Coin | 4 weeks |
| f. Silver Coin | 1 week |
| g. Currency | 6 weeks |
| h. Securities | 6 weeks |
| i. Jewelry | 8 weeks |
| j. Other Assets | 4 weeks |

3. Paragraph 2 indicates a total required inventory time of 9 and $\frac{1}{2}$ months, assuming that the necessary personnel is present and that the items are inventoried consecutively. However, if inventory teams are established, it is believed that the inventory operation could be completed in 6 months.

WILLIAM G. BREY
Colonel GSC
Chief, Foreign Exchange Depository

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Entry McCloy Papers
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Form HICOG-0
(15 Sept 49)

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FOR GERMANY

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File

*✓ 1095 Rucker's
Sir Arthur*

To: Mr. John J. McCloy

Date: February 2, 1951

From: PA:DP - Guy J. Swope *gsw*

Subject: SIR ARTHUR RUCKER'S MEETING WITH YOU TODAY

Sir Arthur Rucker, Deputy Director General of the IRO, has an appointment to see you this afternoon at 4:30. I have been informed by the IRO Liaison Officer that he will probably bring up the following subjects:

- (1) International Tracing Service (ITS): At his last meeting (September) with the High Commission Mr. Donald Kingsley, Director General of the IRO stated that he hoped the High Commission could find it possible to continue carrying on the remaining tasks now being performed by the ITS, whose headquarters in Western Germany are at Arolsen in the U.S. Zone. For sometime the Sub-Committee for DPs and Refugees has had a working group engaged in developing a plan for such takeover. Mr. Hughes of this division has been the American member. The matter is now far enough along to indicate that a final agreement can be reached by which the IRO will turn over this activity to the High Commission. It is understood that each of the three elements of the AHC will provide one member of a directing board. The remaining point at issue is: We have asked the IRO to reduce their international personnel, thus saving enough money from their budget to continue 8 of these employees for a period of 6 months. They have expressed willingness to do this but prefer to transfer the funds to cover the salaries rather than to carry them on their own payroll and give them to us as a loan which we strongly desire. You might urge Sir Arthur to agree to our request on this point since it would entail considerable administrative and accounting trouble for us otherwise.
- (2) Residual Displaced Persons: As time goes on it is becoming increasingly apparent that the DPs who will have to remain in Germany will have a difficult life at best. The IRO, having been given a broad mandate with respect to the fate of DPs, is naturally concerned about this problem, as are the members of this division. On behalf of these unfortunate people a number of positive steps have been taken or are in prospect:

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OFFICE MEMO
U.S. HIGH COMMISSIONER FOR REFUGEES

- (a) A DP bill which was prepared in close consultation between the German Government and the Sub-Committee for DPs and Refugees is now before the Bundestag, having already passed the Bundesrat. It will give specific and substantial legal, political, social, and economic rights to DPs who will remain in Germany. (b) This division has brought before the HICOG Working Group on Refugees a proposal which may eventually make available about 150 million DMs for the purpose of constructing housing specifically for residual DPs throughout the entire area of the Bundesrepublik. This amount would come from three sources:
- (i) 60 million DM - ECA or GARIOA. This prospect is being pushed by Mr. Cattier.
 - (ii) 75 million DM - The German Government. There is already a preliminary indication that money from this source is likely to become available.
 - (iii) 15 million - The IRO. We have not yet brought this formally to the attention of any IRO officials, but this may be a good opportunity to pledge Sir Arthur in advance.
- (3) The IRO's Approaching Demise: The IRO's General Council at its meeting in Geneva extended the life of the organization from March 31, 1951, to September 30, 1951. I suppose Sir Arthur wants merely to state that fact.
- (4) New UN High Commissioner for Refugees: In December 1950, before adjournment, the General Assembly of the United Nations elected Dr. Goedhart of Holland to this post which had been provided by an earlier action. Besides mentioning this fact, Sir Arthur may want to talk about the delineation of responsibilities between this new official and the IRO. It would be our assumption that the IRO would remain as the only UN agency operating in Occupied Germany until it passes out of existence.
- The UN has provisionally adopted a convention on refugees, and the German government has already announced its willingness to adhere to such convention whenever it is ready for acceptance by the nations of the world.
- (5) Director General Kingsley's New Assignment: Announcement has recently been made by Secretary General Lie of the UN that Mr. Kingsley had been appointed as Agent General of the UN for Rehabilitation in Korea. Sir Arthur will probably want to mention this to you and indicate the authority and responsibility devolving upon

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 By TJ NARA Date 9/5/99

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 Entry McCloy Papers
 File DCSI)134-177
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him through this development. It is our understanding that Mr. Kingsley has accepted the new appointment but with the reservation that he will continue as Director General of IRO for the remainder of its life.

- (6) Consolidation of the Three Zonal Headquarters into One: Several weeks ago when Sir Arthur asked for an appointment with you, it was stated that this was the principal reason for his desire to see the High Commissioners. In the meantime, through the mysterious workings of internal IRO politics, the whole thing has been called off. It had been stated that a consolidation would save more than 100 international employees and a proportionate number of German employees. It is my estimate that this might have amounted to as much as one million dollars per year. You may want to ask Sir Arthur why they have decided to abandon the idea of consolidation.
- (7) Immunity Attaching to IRO as an International Organization: It is possible that Sir Arthur will bring this matter to your attention. The IRO is operating in Western Germany on the basis of special agreements made with each of the occupying powers. In none of these agreements is any immunity provided. In the early part of 1950 some lawyers apparently conceived the idea of bringing suits against the IRO in occupation courts to recover damages allegedly caused by IRO action. I think they cover largely automobile cases. Normally damage claims have been handled by an agency of EUCOM for the Army, HICOG, and the IRO. Since the occupation courts in the British and French zones do not have civil jurisdiction, the situation in the U.S. zone on a comparable basis is actually unfavorable to the IRO. After a thorough examination and with full agreement between the General Counsel's office and this division, it has been decided to suggest that the courts be instructed by you that they do not have jurisdiction in cases effecting the IRO as an organization.

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Authority NND 775057
By AR NARA Date 9/23/99

KG 260 OMEUS
Entry Rec. Pwr Div.
File Amicable Settlements
Box 9 390/44/20/1-3

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Attention: Mr. Cassoday

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By DL NARA Date 9/22/99

RG 260 OMBUS
Entry Rec. Prep Div.
File AMICABLE Settlements
Box 9 392/44/29/13

Amicable Settlements under MG Law No. 59

2 ID 17 Aug 48 1. Reference is made to Item 1 of this carrier sheet in which the opinion of this Division is requested upon two questions:

- a. what are the requirements, other than those imposed by MG Laws Nos. 52 and 53, for an amicable settlement of a claim within the scope of MG Law No. 59;
- b. what requirements must an amicable settlement of such a claim fulfill so that transactions made in connection therewith are licensed under MG Laws Nos. 52 and 53 by General License No. 10, issued pursuant to MG Law No. 52, also known as General License No. 4, issued pursuant to MG Law No. 53.

Question a.

2. Amicable settlements made in connection with claims within the scope of MG Law No. 59 as to which no petition has been filed under Law No. 59. An amicable settlement in a claim as to which no petition has been filed with the Central Filing Agency is not forbidden by MG Law No. 59. Article 57 of Law No. 59 does not appear to prohibit the enforcement of such a settlement by ordinary judicial proceedings. See para. 3(a) below. However, all such settlements would require licenses under MG Law No. 52, and, in certain cases, MG Law No. 53, in order to be effective. See Articles I, II and V of Law No. 52; Articles I and II of Law No. 53; para. 4 below.

3. Amicable settlements made in connection with claims as to which a petition has been filed under MG Law No. 59. An amicable settlement may also be made after filing a petition pursuant to, and within the scope of, MG Law No. 59. Law No. 59 does not set forth the requirements for perfecting an amicable settlement. The requirements for the perfection of amicable settlement are, therefore, determined by the general principles of the law of contracts. In the case of a settlement involving personal property, title passes upon consent and delivery (Section 929 of the German Civil Code). Before title passes in a settlement involving real estate, consent and judicial or notarial authentication of the agreement are required (Section 873, 925 of the German Civil Code).

a. Military Government Law No. 59 contains no requirement that the parties report to the Restitution Agency an amicable settlement reached after a petition has been filed with the Central Filing Agency. Cf., Article 62 of MG Law No. 59. Article 57 provides that

"Unless otherwise provided in this Law, any claim within the scope of this Law may be prosecuted only under the provisions and within the periods of limitation, set forth in this Law".

Amicable Settlements under MG Law No. 59

This language cannot be interpreted as prohibiting the enforcement of such a settlement by judicial proceedings since the proceedings would not arise out of the claim under Law No. 59 but out of the settlement. Nor does Article 71 require that ordinary judicial proceedings arising out of settlement be reported to the Restitution Agency by the court entertaining such proceedings.

b. All petitions filed under Military Government Law No. 59 will, even though the parties have agreed upon a settlement, be processed in accordance with the procedures established by that Law. It is assumed that, in the course of the proceedings contemplated by Articles 61 and 62, the Restitution Agency would ordinarily be notified of the amicable settlement and that this settlement would then be recorded as provided for in Article 62(3). If this were not done, and if no objection were raised against the petition as filed, the Restitution Agency would under Article 62(1) issue an order granting the petition. Any difficulties arising out of possible differences between the settlement and such an order would be resolved under general principles of law.

Question b.

4. General License No. 10 covers amicable settlements and transfers of title made with reference to a claim for restitution properly filed with the Central Filing Agency, provided that the claim for restitution was filed by way of a petition on behalf of a persecuted person or his heir or legatee, but not his assignee, and that none of the exceptions set forth in paragraph 2 of General License No. 10 are present.

Rm 2127, Dir Bldg
Tel 44614

JOHN M. RAYMOND
Colonel GSC
Director

DECLASSIFIED
Authority NND 775057
By AR NARA Date 9/22/99

KU 260 OMEUS
Entry Rec. Pass Div.
File Amicable Settlements
Box 9 390/44/20/13

SECRET

--- 696-A

Nuernberg, Germany
7 July 1948

SUBJECT: Dr. Benno Ostertag

TO : Colonel Raymond

1. The activities of this individual were brought to my attention by the Chief of the German Court Section OMG Wuerttemberg-Baden, in connection with the information concerning the appointment of members of the restitution chambers under the restitution law which you asked me to pass on to the Legal Directors.

2. The subject individual so far as known is not involved in matters concerning the appointment of personnel. The facts concerning him as reported to me by the Chief of the German Courts Section, OMG Wuerttemberg-Baden are that this man, although Jewish, retained a practice of some volume during Nazi times. During the Nazi period when expropriation or confiscation of Jewish property was undertaken in the Stuttgart area, it is understood that he frequently was consulted by Nazis and SS officials to determine what Jewish property would be taken over. He maintained such relations with these officials, that his practice was never terminated. In consequence he has a first hand familiarity of the factual situation in a large number of restitution cases in the Stuttgart area.

3. He now represents a number of clients who are interested in such cases.

4. In addition it appears that Ministry officials have consulted with him on cases, although so far as is known these consultations have not occurred in any case in which he represents a party, for the purpose of determining appropriate action in respect to them. It also appears that he maintains quite close relations with the Ministry on matters generally concerning the restitution law. It is understood that he sat in on the drafting of the overall restitution procedure in Wuerttemberg-Baden area and it is said that he probably drafted or assisted in the drafting of some of the implementing regulations under the restitution law for Wuerttemberg-Baden. So far as is known this service is rendered without pay.

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5. This information is obtained from German sources through the German Court Section, OMG W-B. Mr. Brown was unable to verify its accuracy although he believes it to be generally correct.

6. Mr. Brown also noted that the Property Control Office of OMG W-B views the subject individual with some disfavor.

7. The present position of the German Court Section OMG W-B is that there is not enough to warrant action inasmuch as so far as appears Ostertag's relations with the Ministry are as a result of the Ministry's consent or perhaps request and are without pay. On the other hand his activity is at least near the borderline of what is proper conduct and could easily result in improper influence.

8. I have asked Mr. Brown to watch the situation.

9. In view of the previous problem that has occurred in connection with appointments to the Restitution chambers, it has seemed to me best that I report this information to you, so that I may have your instructions as to what other and further steps we should take in the matter. My own view is that at the moment there is nothing upon which to specifically condemn the individual. On the other hand I question the propriety of a private attorney without any official capacity taking part either with the consent or the request of the Ministry officials in the drafting of procedural regulations under which he will proceed to press claims of clients. In view of our previous experience, this may be enough for us to initiate some further action, perhaps through advice to the Ministry that we do not approve such practice.

CHARLES H. KRAUS
Chief

Tele Nuernberg 61494

Administration of Justice Branch

- 2 -

SECRET

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DECLASSIFIED

Authority NND 775057

By AR NARA Date 9/23/99

RG 260 OMGUS

Entry Rec. Prop Div.

File Amicable Settlements

Box 9 390/44/20/1-3

Counselors-at-Law Dres. Ostertag (Notary) and Ulmer
(14a) Stuttgart S, Charlottenstr. 15A

Telefon: 9 12 77

TO: Mr. William J. Dickman
Property Division OMGUS
W i e s b a d e n
Taunusstrasse 9
APO 633

Your Ref.:
/B

Date:
24 June 1948

Dear Mr. Dickman:

Regarding restitution cases, difficulties are arising here now after the authorities have done excellent work and achieved fine results.

As I already told you at a session of the Legal Committee, we handle the cases as follows:

Every claim is properly filed at Nauheim. In urgent cases, a duplicate of the claim to be filed at Nauheim (in every case, the filing at Nauheim was done previously) is transmitted to the arbitrator. In addition, the latter is forwarded the whole matter in the form of a statement of the claim, where the petitions and reasons have been formulated more extensively than in the claim filed at Nauheim. The arbitrator serves the pleadings and sets the period of limitation in compliance with Restitution Law. In some instances, as in an urgent case, he somewhat reduces the two-month period of limitation otherwise granted for submitting the statement. On the other hand, he extends such period of time if the opposite party requests and motivates such extension. In this way, amicable settlements were achieved, even in matters of importance. Two cases were transmitted to the Restitution Chamber after the attempts had failed to bring an amicable settlement. Under Article 67, 2 d, the Restitution Chamber already issued orders to return plants to the claimants.

As I am given to understand from the Main Property Control Agency, Mr. Fischbein has now raised objections. He stated to Dr. Porter, Land Property Control that cases should not be processed unless Nauheim has forwarded the papers. In this connection, I received the attached letter by the Main Property Control Agency.

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File Amicable Settlements

Box 9 390/41/20/13

- 2 -

Nauheim, however, does not function at all. Yesterday, for example, I received notifications setting forth that by now, that is on 23 June 1948, they are transmitting to the arbitrator my petition I had filed at Nauheim on 15 January 1948. Most of the other cases are taken care of in exact the same manner. One of the cases having been received by the arbitrator on 23 June, was settled amicably long ago. Very often, both parties want an amicable settlement. If we were to act on the suggestions of Mr. Fischbein and Dr. Porter, a delay would result which would be contrary to the interests of either party.

The principle of the Restitution Law is set forth in Article 1. Everything shall be done to expedite restitution. The attitude of both gentlemen, however, would result in a delay which will be by no means tolerable.

Law 52 is likewise a protective law in behalf of the entitled person. The way, however, in which it is to be carried out renders the law a law persecuting the entitled person. That can never have been the intent of Military Government.

You all will be agreed with me that a speedy restitution is aimed at, but nonsensical formalism is inimical to restitution. As you have always advocated an objective and reasonable solution, I request that you reject the endeavors undertaken by Mr. Fischbein and Dr. Porter. I cannot imagine that the American public is in favor of the procedure both gentlemen have resorted to. Anyway, Nauheim and Stuttgart Property Control are no authorities which have been set up to suit themselves, but to ensure restitution.

As you will have gathered from the letter, the other question has arisen now what function will be assigned to Property Control when, by an order of a law-court, any plant is temporarily to be returned to an individual entitled to restitution. As Dr. Kuester and I feel it, Property Control will no longer be of any use. The term "Treuhänder" (trustee) does not mean "custodian", but a "trustee" in the meaning of old German legislation. Towards a third party, the entitled person functions as a trustee, otherwise he is the owner. The ruling of the law-court has the same effect as though, in contentions jurisdiction, the return of a property has been obtained through an interlocutory enforceable judgment. If a subsequent instance would nullify the ruling - an action which in such cases is impossible -, the entitled person would be liable to the same extent as he would be responsible according to the Code of Civil Law after he has enforced execution by virtue of an interlocutory enforceable judgment,

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DECLASSIFIED
Authority NND 775057
By AL NARA Date 9/27/99

KU 260 OMBUS
Entry Rec. Prep Div.
File Amicable Settlements
Box 9 390/44/20/13

- 3 -

that is he responds by his entire property,

I should appreciate it if you would take care of the matter energetically at your earliest convenience because red-tapism is interfering here with efficiency of operation.

In dealing with Property Control instrumentalities, one feels the strong influence of the individuals who promoted Aryanizing actions. May be, such influence also affects the Stafflenbergstrasse officials, though they would never admit such effect.

If the law shall be enforced, such end can be secured only in the way in which we have been proceeding in Wurttemberg. I think our way of operating has been exemplary so far.

This letter is an SOS in the interest of the entire Restitution Law.

With kind regards,

I remain faithfully

yours,

DR. OSTERTAG

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Authority NND 775057
By AR NARA Date 9/22/99

KU 260 OMGUS

Entry Rec. Prep Div.

File Amicable Settlement

Box 9 390/44/20/13

Information Copy for PC&EA Br, Property Div, OMGUS
APO 633, U.S. Army

COPY
st

ZENTRALANMELDEAMT
(Central Filing Agency)
Bad Nauheim, Germany

Your Ref.: CO/LS/sch

To the
Finance Ministry
Main Department VI
Stuttgart - S
45 Heusteigstr.

Date : 15 June 1948

This is to acknowledge receipt of your letter dated
24 May 1948 relative to filing reports under Military
Government Law No. 59.

In the beginning of the letter mentioned above you
stated that according to Regulation No. 2 under said Law
the originals of the reports with two copies are to be filed
at the Central Filing Agency, which will transmit the papers
to the appropriate restitution agency. The provisions contained
in Law No. 59 and in the Regulation No. 2 thereunder with
respect to filing reports pursuant to Article 73 of the Law
are clear and unequivocal; they provide for no such manner
of processing as referred to by the Finance Ministry, Depart-
ment Blocked Property.

The Central Filing Agency may operate only within the
scope of responsibilities turned over to it through Law No. 59.
It may not make any statement relative to its concurrence
with measures incompatible with the provisions of the Law.
If only originals of reports pursuant to Article 73 are sub-
mitted, two copies will have to be furnished subsequently.
In such cases, persons liable to file reports are free either
to prepare and to submit two more copies or to reclaim the
copies which have been forwarded to the Justice Ministry,
Department VI.

No particular set up is required as far as statements
on property which is to be restituted are concerned, provided
such statements have been made by the custodian pursuant to
Article 73, para. 2 of the Law. In such a case, no exception
should be taken to submitting an original without additional
copies, if the required data are contained in the paper.

BERNARD FISCHBEIN
Chief

333111

DECLASSIFIED
Authority NND 775057
By AR NARA Date 9/22/99

KU 260 OMEUS
Entry Rec. Prep Div.
File Amicable Settlements
Box 9 39.0/44/29/13

Finance Ministry
Main Department VI
- Blocked Property -

Stuttgart-S, 24 May 1948
Heusteigstr. 45
Tel.: 76645/Ext.17

CO/LS/sch

To the
Central Filing Agency
Bad Nauheim
F r i e d b e r g / H e s s e

SUBJECT: Filing Reports Under Military Government Law No. 59

According to Regulation No. 2 under Military Government Law No. 59, reports on property involved are to be filed in triplicate. The Central Filing Agency transmits such reports to the appropriate restitution agency.

For the purpose of rationalization and in order to simplify processing, Finance Ministry, Section Blocked Property, formerly instructed the property control agencies, which are under its jurisdiction, and the appointed custodians to forward one copy of every report to the Central Filing Agency at Bad Nauheim and two copies to the Justice Ministry of Wurttemberg/Baden, Department VI, Restitution. Meantime, almost all of the reports have been filed in accordance with that instruction.

This Department, Blocked Property, supposing you have concurred with such regulation of processing, would appreciate it if you would confirm such concurrence.

By Order:

/s/ Linse

/t/ LINSE

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Authority NND 775057

By AR NARA Date 9/23/94

KU 260 OMBU

Entry Rec. Proq Div.

File Amicable

Box 9 September
30/11/2011

**NON - RECORD
MATERIAL**

THIS FILE MAY BE RETAINED
BY OFFICE AS A WORKING
FILE

REVIEWED BY HQ EUCOM
SCREENING TEAM.

Jan 2000
DATE

SIGNATURE

Handwritten notes:
10/10/10
10/10/10

DECLASSIFIED
Authority NND 775057
By SL NARA Date 9/27/99

KG 260 OMGUS
Entry Rec. Prop Div.
File Amicable
Settlements
Box 9 390/44/20/1-3

(18)

Prop - dir

DRS. WOLFEN, PINNER, BEHR, MARCUSE & ASSOCIATES
FOREIGN LAW ADVISERS

NEW YORK CHICAGO LOS ANGELES SAN FRANCISCO BOSTON BALTIMORE
WASHINGTON, D. C.

12. October 1949

FILE ROOM COPY

RUDOLPH BEHR
ALFRED EISENSTAEDT
MARTIN I. KOBEY
BRUNO LAMM
PAUL MARCUSE
HEINZ PINNER
HEINRICH RIEGNER
MARTIN WOLFEN

751/753 Lake Drive
Baltimore 17, Md.

Office of the U.S. High Commissioner for Germany
A.P.O. 757
Postmaster New York, N.Y.

Re.: Decontrol of property

Dear Sir:

My client, Mr. Arthur Rosenfeld of Baltimore, Md who is an U.S. citizen owns one half of the properties located Endresstrasse 14 in Ansbach/Bavaria and his ownership was and still is recorded in the land record (Grundbuch) of the court of Ansbach Vol. 7 page 1114 and 1049. The respective registering is dated 13 August 1931.

Due to absentee ownership, the property was subject to Military property control. The Property Control and External Assets Branch of the former Military Government urged 5 or 6 times my client to apply for release from control. Thereupon, my client filed a respective petition which I have drafted in accordance with the rules of OMGUS and which was submitted by the German representative of my client to the proper German authorities. This petition has been denied and the German authorities explained to me that they are acting upon order of the Property Control and External Assets Branch of OMGUS. I complained to this branch and refer for further details to the respective file of the aforementioned agency.

Apparently, this agency discovered, meanwhile, a Nazi Law according to which the now defunct Nazi Government would be entitled to deprive the owner, my client, of his property. I don't know whether Nazi laws are still in force in Germany and/or whether Military Government Law No. 1 has been abrogated. I refer to Military Government Law No. 1 Art. 11 and V.

Mr. Fred E. Hartzsch, Chief of the Property Control and External Assets Branch, found suddenly and contrary to the requests to apply for release and after the date of filing the respective petition, that on account of a Nazi law the defunct Nazi Regime had become the owner although my client is registered as owner in the land record. I was and am still of the opinion that the chief of an U.S. agency is supposed to protect the rights of an U.S. citizen and not of the defunct Nazi government.

If Mr. Hartzsch would have decided before the cut-off date as of 31 December 1948 of Military Government Law 59 that the defunct Nazi government is still entitled to deprive my client of his property and if he would have not requested to apply for release from control, my client would have been able to start restitution proceedings. But his decision concerning the Nazi law was made after 24 January 1949.

Upon



333114

DECLASSIFIED
Authority NAD 775057
By AR NARA Date 9/22/99

KU 260 OMEGA
Entry Rec. Prop Div.
File Amicable
Settlements
Box 9 390/44/20/13

- 2 -

my repeated and strong objections, Mr. Hartzsch, finally, perceived his mistake and informed me on June 22, 1949 that special legislation concerning this and similar cases "is now being actively discussed. Promulgation of such legislation is expected to be accomplished in the near future." - I enclose a copy of his letter, dated 22 June 49.

Such legislation has, according to my knowledge, so far not been promulgated. In my opinion, the legislation in question is superfluous provided that the erroneous ruling of the Property and External Assets Branch will be reversed and the status quo ante which was corresponding to common sense will be restored.

I wish to call this case to your special attention and feel sure that you will take the necessary steps for release of the properties of my client from control.

An early reply would be appreciated.

Sincerely,



Dr. Rudolf Behr

Encl.: 1 copy

333115

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Authority NND 775057
By AR NARA Date 9/22/99

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Entry Rec. Prop Div.
File Amicable
Settlements
Box 9 390/44/29/13

Copy

Office of Military Government for Germany (US)
Property Division
Property Control and External Assets Branch
APO.633
Wiesbaden, Germany

22 June 1949

Dr. Rudolf Behr
751/753 Lake Drive
Baltimore 17, Md.

Dear Dr. Behr:

Re: Property Endresstr.14, Ansbach/Bav.

In acknowledging receipt of your letter of 16 June 1949, this office can merely reiterate the policy and statements made concerning the reclassification of the above property in previous correspondence.

You are advised, however, that the question of the manner in which special consideration can be given to cases in which claimants, because of a change in the classification of property, were not given time to file under MG Law No.59, is now being actively discussed. Promulgation of such legislation is expected to be accomplished in the near future.

Inasmuch as reclassification of subject property to duress category was accomplished in accordance with established U.S. Military Government policy, it can be released only under the provisions of Military Government Law No.59. Your request for its release as absentee owned property must, therefore, be denied.

Sincerely,

FRED E. HARTZSCH
Chief

333116

DECLASSIFIED
Authority NND 775057
By AR NARA Date 9/22/99

KU 260 OMEUS
Entry Rec. Prop Div.
File Amicable Settlements
Box 9 392/44/20/13

Law 59

Office of Economic Affairs
APO 757

WGD/sw

Frankfurt, Germany
November 23, 1949

Messrs. Tyrrell Lewis & Co.
34, Henrietta Street, Covent Garden
London W. C. 2, England

Gentlemen:

Reference is made to your letter of November 16, 1949 in which you ask for a certification by the Occupying Authorities to the French High Commissioner for Austria that the provisions of a certain amicable settlement of a restitution claim duly approved by the Frankfurt Restitution Agency in accordance with Military Government Law No. 59 are in accordance with the Restitution Law as applied by the Occupation Authorities. The provisions in question purported to provide for the transfer of the interest of the restitutor, a German company of Frankfurt/Main in a stock of silk now located in Austria to your clients, the restitutes.

It is not the policy of the Office of the United States High Commissioner for Germany to make certifications of this nature. Military Government Law No. 59 providing for the restitution of identifiable property is administered almost entirely by German authorities. In the United States Zone of Germany the question as to whether or not the provisions of a given agreement are in accordance with the law is a matter determined by the German courts and by the Board of Review. What effect the provisions of agreements under Military Government Law No. 59 have outside of Germany is not determined in the same manner. Occupation Authorities within Germany cannot, and as a matter of policy, do not, attempt to advise authorities outside of Germany as to the affects outside of Germany of agreements concluded in Germany, even if such agreements are duly approved by Restitution Agencies.

Very truly yours,

FRANK J. MILLER
Chief - Property Division

Mr. Miller - Subject File

333117

DECLASSIFIED
Authority NND 775057
By AL NARA Date 9/27/94

KU 260 OMEGUS
Entry Rec. Prop Div.
File Amicable
Settlements
Box 9 390/44/20/1-3

OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY
OFFICE OF ECONOMIC AFFAIRS
PROPERTY DIVISION
INTERNAL RESTITUTION SUPERVISION BRANCH
c/o Office of the Land Commissioner for Hesse
APU 633

Wiesbaden, Germany
November 14, 1949

TO : IRSB, Bad Nauheim - Mr. Laks
FROM : IRSB, Wiesbaden - Mr. Leber
SUBJECT: Inquiry of Allianz Lebensversicherung A.G.

The legislation referred to is the law on equalization of burdens, dated September 2, 1949, issued by the Wirtschaftsrat in pursuance of Art. 16, Par 3 of MG Law No. 63, according to which article German legislation shall provide for cases where the debtor has derived a profit from the conversion of Reichsmark obligations into Deutsche Mark obligations (Gesetz zur Sicherung von Forderungen fuer den Lastenausgleich, dated September 2, 1948).

To mortgages on real estates which are subject to restitution the provisions of Arts. 37 et seq. of MG Law No. 59 (continued existence of interests) will apply. The conversion law provides further for different treatment of properties owned by United Nations nationals. The principles developed out of that legislation will, naturally, affect the application of the law on equalization of burdens in individual cases. Consequently, said law will apply to real estates which are restitutable property under MG Law No. 59 only within the limit of encumbrances. Nothing is known, however, of any legislation concerning particularly former Jewish real estates in a sense mentioned by the Allianz AG.

At Legal Division of the Land Commissioner for Hesse and the Land Central Office for Property Control and Restitution, Hesse, which both were contacted in subject matter, also nothing was known of any special legislation other than that quoted above, which the Allianz AG might have in mind.

Telephone WIESBADEN 21341
Ext 362

EAL/ps

333118

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Authority NND 775057
By AR NARA Date 9/23/94

NO 260 OMBUS
Entry Rec. Pass Div.
File Amicable
Settlements
Box 9 392/44/29/13

File: Law 59

OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY
Office of Economic Affairs
Property Division
APO 807
Bad Nauheim, Germany

10 October 1949

SUBJECT: General Restitution Agency Wiesbaden

TO : Office of the US High Commissioner for Germany
Office of Economic Affairs
Property Division
APO 757
Frankfurt, Germany

1. Reference is made to your letter of 8 September 1949, subject as above.

2. The Wiesbaden Restitution Agency with general jurisdiction under Regulation No.6 to MG Law No.59 has to date received approximately 3,000 petitions. These petitions are marked by the Central Filing Agency with "AV No.6" and are further designated by the Land Central Office as "S-Petitions". A total of 374 has been disposed of in the following manner:

| | |
|---|-----|
| Forwarded to the British authorities | 210 |
| Forwarded to the French authorities | 152 |
| Withdrawn | 9 |
| Referred to other agencies in the US Zone | 3. |

610 petitions were found upon examination to involve claims to properties in the Russian and Polish controlled part of Germany. In view of the promulgation and the pending enactment of the General Claims Law and Immediate Relief Law (Soforthilfegesetz) these petitions are held in suspense until determination can be made whether either of the above-mentioned laws applies. Otherwise the claimants will be asked by the Restitution Agency to withdraw their petitions or the petitions will be dismissed.

3. In a recent discussion on the activities of the General Restitution Agency Dr. Weisstein explained the reasons for the slow progress made in the processing of S-Petitions. He stated that, because of their vague form, many additional inquiries

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Settlements

- 2 -

Ltr to Property Division, Frankfurt, dtd 7 October 1949,
subject: General Restitution Agency, Wiesbaden.

have to be made with the claimants.

4. It is contemplated to instruct the aforementioned
Restitution Agency to submit monthly activity reports so that
in the future more detailed statistical figures will be
available.

Tel: Bad Nauheim 2041

Ext: 541


WERNER M. LOEWENTHAL
Chief

Internal Restitution Supervision Branch

333120

DECLASSIFIED
Authority NND 775057
By AK NARA Date 9/27/94

RG 260 OMBUS
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File Amicable Settlements
Box 9 390/44/20/13

~~Follow~~
~~12/27~~
FM
Law 59

Translation of the Frankfurter Rundschau of December
13th, 1949

Translation

RESTITUTION LAW - A TEST OF GERMANY'S GOOD WILL by
Lothar Franke, Staff Reporter

Frankfurt Dec. 12th. "Every attempt to inject into the German Restitution Law provision which would de facto nullify restitution and constitute an enrichment of the confiscator would have a destructive effect abroad."

This was stated by Allied sources in Frankfurt on Monday in connection with demands brought forward by "The Association for Loyal Restitution" in Baden-Baden for the full conversion of the purchase price paid by the restituters at the time of confiscation.

It was emphasized in this connection that the currency conversion laws do not allow in principle the conversion of any Reichsmark claims on a basis other than 1 Deutsche Mark for 10 Reichsmark.

To favor aryanizers and other confiscators to the detriment of their victims by granting a higher or even full conversion rate of the Reichsmark amounts which are tied up with the illegally acquired property would constitute a "unbearable distortion of the idea of restitution".

The Allies strive for the issuance of a federal law which would apply to the entire western area providing for restitution of identifiable property to persons which had been deprived of their property for religious and racial reasons during the period of January 30, 1933 to May 8, 1945.

The officials emphasized that rumors that pending restitution proceedings would be interrupted until the issuance of a federal law are without foundation.

Until the effective date of the German restitution law restitution on the basis of the existing Allied laws would be carried out with determination.

The officials declared in conclusion: "After the promulgation of a German restitution law internal restitution in the meaning of the occupation statute will remain a reserved power of the Allied High Commission.

Allied Board of Review will represent the highest judicial power in this field until the completion of the restitution program.

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By AR NARA Date 9/22/99

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File Amicable
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Box 9 398/44/24/13

F Mich
8013
8845

December 13, 1949

QUESTION NO. 45:

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

COMMENT:

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

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

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

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

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- 2 -

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

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

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

333123

Fellow

28 Nov 49

OFFICE OF THE U.S. HIGH COMMISSIONER FOR GERMANY
Office of Economic Affairs
APO 742
Berlin, Germany

FJM/dk

4 October 1949

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

TO : Office of General Counsel
HICOG, APO 757

Attn: Legal Advice Division

1. Article 11, para 2, Military Government Law No. 59 provides that "If the claimant himself has not filed a petition on or before 31 December 1948, the successor organization by virtue of filing the petition shall acquire the legal position of the claimant. Only after that date, and not prior thereto, shall it be entitled to prosecute the claim." From this provision it would appear that an authorized successor organization would succeed to the rights and position of persons who would have been entitled to claim within the prescribed period, but who failed to do so. On the other hand, the rights of the successor organization are limited by Article 10 of the Law, which provides that "A successor organization appointed by Military Government shall, instead of the State, be entitled to the entire estate of any persecuted person in the case provided for in Section 1936 of the Civil Code (Escheat of estate of person dying without heirs)." (Underlining supplied)

2. Article 56, para 4 further limits the apparent broad language of Article 11, para 2, by the following language: "Any petition, filed by a person who is not entitled to restitution of the property, shall be deemed to have been effectively filed in favor of the true claimant, or where Articles 8, 10 and 11, are applicable, in favor of the successor organizations mentioned therein. The same shall apply to the filing of petition by any such successor organization." (Underlining supplied)

3. It is desired to determine:

a. whether, pursuant to Article 11, para 2, the filing of claim by a successor organization, in absence of a timely claim by the entitled person, creates a substantial right in the successor organization, excluding the originally-entitled claimant; or

b. whether a claim filed by a successor organization will redound to the benefit of the person who was entitled to claim, but who failed to do so, in line with the language of Article 56, para 4.

Mr. Miller - Subject File

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4. In the event your Office considers it more appropriate to request the Board of Review or its successor for an opinion on this question, as provided for in Regulation No. 4 under MG Law No. 59, it is hereby requested that such action be taken.

5. The Jewish Restitution Successor Organization (JRSO), having a direct interest in the question, has requested that it be given an opportunity to present its views, in the event that the matter is made the subject of study.

cc: JRSO Nuernberg

FRANK J. MILLER
Chief - Property Division

333125

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Authority NAD 775057
By AR NARA Date 9/23/99

KU 260 OMEUS
Entry Rec. Prop Div.
File Amicable Settlements
Box 9 390/44/24/13

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

June 1949

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

TO : The Chief of Staff

I. DISCUSSION.

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

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

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

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

333126

TO: The Chief of Staff

June 1949

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

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

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

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TO: The Chief of Staff

June 1949

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

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

II. ACTION RECOMMENDED.

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

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

III. CONCURRENCES.

Legal Division

Tel: WIESBADEN 21341
Ext 426

PHILLIPS HAWKINS
Director

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By AL NARA Date 9/22/99

KU 260 OMBUS
Entry Rec. Pers. Div.
File Amicable Settlements
Box 9 390/44/20/13

29 July 1949

SUBJECT: Custodians for Property Subject to Restitution Claims
under Military Government Law No. 59, US Zone

TO, : Combined Steel Group, Duesseldorf
APO 757

Attn: Mr. Henry Johnston
Legal Adviser

1. Mr. Paul L. Weiden, American attorney for Mr. Ottmar Strauss in the restitution case concerning the Otto Wolff properties, has recently discussed the matter of Military Government custodianship with the undersigned.

2. During the conversation, Mr. Weiden asked that we advise you of the practice obtaining in the American Zone, with reference to properties which are subject to restitution claims.

3. It has been the policy of Military Government in the US Zone to take into Property Control custody immediately upon the filing of a petition for restitution pursuant to Military Government Law No. 59, any properties so claimed. It has likewise been Military Government policy to maintain such custody under a Military Government-appointed custodian, until the case has been settled or adjudicated. As you doubtless know, the purpose of Military Government in this policy is to protect the property for the benefit of the owner, whether he be the record holder of title or the petitioner. This policy further provides that persons who have been owners of the affected properties may not be permitted to remain in the management thereof unless their services are absolutely essential to the welfare of the properties, and unless the claimant agrees in writing to their retention in such capacity. In those cases where the owner may exercise his influence or control of the management through other persons, the same policy is followed with reference to the latter. This policy, however, does not apply in cases of small properties where sound business practice would not warrant it.

4. In some instances, properties may be the subject of restitution claims under Military Government Law No. 59, and at the same time

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they may be subject to Military Government Law No. 75. Although the latter legislation specifies that trustees under that Law may be appointed for those properties, and that in cases of conflict with the provisions of Military Government Law No. 52 (under which Property Control custody is exercised), Military Government Law No. 75 shall prevail, this Office understands that trustees have not yet been appointed pursuant to Military Government Law No. 75, and until such time, it will be the practice here to maintain Property Control custodians for the Military Government Law No. 59 properties.

5. Although the extent of implementation of the Iron, Coal and Steel Law in the British Zone is not known to this Office, it is understood that it has not progressed further than in the US Zone, and if the British under their newly enacted Restitution Law follow a policy of controlling property claimed under the Restitution Law, it is believed that a similar procedure may be expected in this matter on their side.

6. It is believed that the foregoing policy is a sound one, since it will protect the restitution properties against possible dissipation until trustees for specific properties are named, in the implementation of the Coal, Iron and Steel legislation.

Telephone BERLIN 43750

FRANK J. MILLER
Chief, Property Group

cc: Mr. Paul L. Weiden

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By AL NARA Date 9/27/99

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File Am. Cable
Settlements
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FJM/dk

19 September 1949

Mr. Willy Bernheim
6, Rue Chevert
Paris VII

Dear Mr. Bernheim:

Your letter dated 2 August 1949, concerning a settlement of your claim under the Restitution Law (Military Government Law No. 59), addressed to Mr. Yingling, has been referred to this Office for attention.

It is regretted that this Office is not in the position to provide you with a certificate validating the arrangement concluded in your case, under which certain assets outside Germany would have been transferred.

As you may know, Law No. 5 of the Control Council for Germany vested in the German External Property Commission all rights, titles and interests in respect of any property outside Germany which was owned or controlled on the date of the enactment of that Law by any person of German nationality inside Germany. No provision was made in that Law for exceptions in the case of property owned by persecutees.

Further, unless specially licensed by Military Government, no transactions are permitted affecting property wherever situated, if the transaction is between or involves any person in Germany and any person outside Germany, in pursuance of Military Government Law No. 53. General License No. 4 under Military Government Law No. 53, although permitting transactions necessary and incidental to the filing, prosecution, defense, waiver, settlement or final adjudication of restitution claims, specifically provides that it does not generally license the transfer or assignment of title to any property, including funds, located outside Germany. In view of the foregoing, this Office does not particularly discuss the matter of certification by Military Government of restitution settlements.

It is regretted that we cannot be of assistance to you in this matter, but believe the reasons therefor are adequately set forth above.

Sincerely,

FRANK J. MILLER
Chief, Property Group

Mr. Miller - Subject File

333131

C O P Y

LEGAL OPINION

SUBJECT: Effect on Claimant of Failure to Report under Article 73
Military Government Law No. 59

2 PD LD 1 Mar 1. Item 1 of the carrier sheet dated
49 24 November 1948 asks the opinion of Legal
Division regarding the rights of a potential
claimant under MG Law No. 59 who has been
prevented from filing his claim in due time as a result of the
negligence or fraud on the part of the restitutor in failing to
file a report as required by Article 73 of the Law.

2. Par. 1 of Article 56, MG Law No. 59,
requires that a petition for restitution be submitted to the
Central Filing Agency on or before 31 December 1948. The law gives
the time within which the petition must be filed and it is thus a
Statute of creation, not a statute of limitation. (See 34 Am.
Jur., Limitation of Actions, Par. 7). The right of petition
created by the law is not merely unenforceable after 31 December
1948 but ceases to exist in the petitioner (see Article 11,
MG Law No. 59). Thus a potential claimant who has been prevented
from entering a timely claim no longer has the right to petition
for restitution.

3. Article 67 of the Restitution Law (MG
Law No. 59) states that (subject to certain modifications not
applicable here) the procedure to be followed in actions under
that law shall be governed by the rules governing procedure in
the field of German non-contentious litigation (Freiwillige
Gerichtsbarkeit). In our opinion this Article is only applicable
to the proceedings in the Restitution Chamber and, consequently,
the procedure mentioned is not available to a petitioner under
the Restitution Law until his claim has been filed. For this
reason a potential claimant who did not file his claim by 31
December 1948 would be unable to avail himself of the provisions
for restitutio in integrum which would normally be open to him
under this procedure (see Gesetz ueber die Angelegenheiten der
Freiwilligen Gerichtsbarkeit, as amended; and Code of Civil
Procedure (ZPO, Section 233(1)).

4. Nor would it be possible for a potential
claimant to succeed in a tort action for damages against a
restitutor who failed to file the report required by Article 73
of MG Law No. 59, as a result of negligence or fraudulent intent.
A tort action of this nature could normally be brought under
Sections 823 (2) and, possibly, under Section 826, German Civil
Code (BGB). However, the tort actions under consideration could

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not be prosecuted before restitution authorities only if they were filed within the period of limitation. In view of the fact that the period of limitation has not been complied with in the situation described by you, the restitution authorities lack jurisdiction over these claims. Nor could such tort actions be enforced by German ordinary courts. Article 57 (second sentence) of MG Law No. 59 provides that claims based on tort "which do not come under the provisions of this law" may be prosecuted in the ordinary courts. Since these claims come under the provisions of MG Law No. 59, even though they contain additional elements, prosecution in the ordinary courts would not be permissible.

5. This conclusion is not inconsistent with Article 71 of MG Law No. 59. Article 71 provides for a certain procedure in the event that claims as described in Articles 1-48 are asserted by a person entitled to restitution. Even in the event that Article 71 applies not only to restitution cases pending before ordinary courts at the time when MG Law No. 59 goes into effect, but also to cases prosecuted afterwards, it appears that the procedure set forth in Article 71 is applicable only if a claim has been filed within the time limit prescribed in Article 56, which is not the case in the situation described by you.

FOR THE DIRECTOR:

Telephone 43706

sgd. JAMES E. HEATH
Chief, Legal Advice Branch

333133

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

Finance Division

APO 742

Berlin, Germany

15 January 1948

Ledeboer & van der Helds
Textielhandel

Rotterdam
Holland

Dear Sirs:

There are inclosed herewith two reports on property concerning which you made an inquiry.

In this connection the following information is supplied for your guidance.

Military Government Law No. 59 pertaining to the restitution of identifiable property has recently been promulgated in the U.S. Zone of Occupation of Germany. This law describes in detail the procedure for the restitution of property taken from former owners through "duress" transactions.

Distribution to individuals of Military Government Law No. 59 and implementing Regulations Nos. 1 and 2 on a world-wide basis will not be undertaken by the Office of Military Government (U.S.). Foreign governments have been provided with copies of this law. It is our understanding that they will fully inform their nationals as to the contents of said law.

You are therefore advised that to obtain copies of the foregoing, you should apply to the government of the nation in which you reside or of which you are a national.

Upon completion of your petition in accordance with the procedure set forth in Regulation No. 2, it should be mailed to:

Zentralanmeldeamt (Central Filing Agency)
Bad Nauheim, Germany.

All future correspondence pertaining to this matter or other claims covered by Military Government Law No. 59, should be addressed to the above mentioned Central Filing Agency.

Sincerely,

E. N. REINSEL
Chief, Property Control Branch

2 Incls:

1. Cy PC 2 WG-3050-77
dtd 30 Aug 46 w/incl.
2. Cy report CAH Mannheim
dtd 24 Oct 47

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 Authority NND 775057
 By TJ NARA Date 7/16/99

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C O P Y

**HEADQUARTERS
 JEWISH RESTITUTION SUCCESSOR ORGANIZATION
 APO 696A U.S. Army**

5 November 1948

SUBJECT: Indemnification of General Claims Law
TO: Property Division, OMG Hesse
Property Control Branch
APO 633; U. S. Army
Attn: Mr. Porter

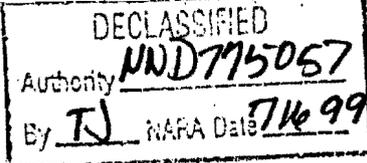
re: General
 Claims Law

1. This office has received a draft of the Indemnification or General Claims Law (Entschädigungsgesetz) recently submitted to Military Government for approval. Without desiring to impede in any way this important and necessary piece of legislation your attention is invited to certain apparent deficiencies in the law.

2. Article 9 of the Indemnification Law provides that where a person entitled to indemnification died, his heirs of the 1st and 2nd degree acquire the claim. It is the unfortunate truth that the extermination program against the Jews was so devastating that in most cases even potential heirs were liquidated. The result of the law as it now stands, therefore, is that the class which suffered most is compensated least. E.G. Law 59, in providing for a successor organization recognized the principle that no benefit should be derived from the fact that whole families rather than one person were exterminated and that an organization representative of the entire class should acquire the rights of those who died heirless, in order to use the assets for the relief and rehabilitation of survivors of that class. This principle was ignored in the Indemnification Law.

3. It is true that this new law provides that heirless claims revert to the Land for the benefit of a special indemnification fund, but the Land being liable for most claims will surely not sue itself. Nor would it be justifiable for the Land to use the claims of murdered Jews in order to fulfill its obligations towards other victims of Nazi persecution. For these reasons as well as for consistency in policy it is submitted that provision should be made to enable the JRSO to acquire those claims which would have been made by survivors if the extermination policy against the Jews had not succeeded.

4. Article 10 of the Indemnification Law provides that claims of associations or institutions may be enforced by other associations which in view of their composition and objectives



may be regarded as successors of dissolved institutions. Article 8 of M.G. Law 59 on the other hand provides that the successor organization is designated by Military Government. This difference in the two laws will produce many situations whereby the successor recognized by Law 59 will hold the plot of land and still another successor recognized under the Indemnification Law will claim for damages to the structure on the land. This inconsistency will undoubtedly produce serious administrative difficulties.

5. Article 11 of the law limits the category of persons to whom claims may be transferred. Claimants should be permitted to transfer their claims to a charitable successor organization rather than forfeiting their rights to the German state by their departure. In fact the preceding draft, dated 26 August, did provide that claims could be freely transferred to a successor organization designated under M.G. Law 59, and this provision should be reinserted in the law.

6. Article 38 by providing that half of the compensation for confinement be paid over a five year period would serve to penalize those who desire to emigrate.

7. The law appears to be particularly defective in Article 6 concerning the eligibility of D.P. persecutees living in IRO assembly centers. This clear discrimination against those who have borne the heaviest burdens of Nazi persecution seems to be wholly without justification.

8. The law now provides that claims will be accounted in Deutsche Marks at the conversion rate of 10 to 1, ignoring the fact that the claim only comes into existence after the date of the law, and that the determination of damages can only be evaluated or assessed in accordance with present Deutsche Mark standards and not with Reichsmark standards. This provision would therefore without reason reduce the claim to 1/10th of its value. Furthermore Article 3, Para. 1, provides that the amount may be increased if the money is available, thus indicating clearly that the amount is not controlled by the conversion law.

9. Since this organization may be materially affected by the terms of the indemnification Law, we have taken the liberty of drawing your attention to these inadequacies in the hope that appropriate corrective action will be taken.

s/ Ben
t/ BENJAMIN B. FERENCZ
Director General

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TAB C

Suggested Modifications

Suggested modifications of the Draft Law concerning Redress of National Socialist Wrongs [General Claims Law] Laenderrat request L 34-3 are:

1. Article 38

Elimination of the phrase: "as far as funds are available".

2. Inclusion of an article to assure an equitable distribution of the financial burden among the Laender, on the basis of consideration of the relative distribution of the benefits.

3. Provision for the creation of separate administrative agencies [except for the Central Filing Agency] for the processing and determination of claims.

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| By <u>TJ</u> | NAFA Date <u>7/6 99</u> |

GREEN TAB

SUBJECT: Extension of Interim Awards Laws

TO :

- Director, Office of Military Government for Bavaria
- Director, Office of Military Government for Hesse
- Director, Office of Military Government for Wuerttemberg-Baden
- Director, Office of Military Government for Bremen
- Director, Office of Military Government for Berlin Sector *

* For information only

1. The Laenderrat has submitted for Military Government approval a draft of a General Claims Law [L 34-3] with effective date of 1 January 1949. Information has been received that some of the Interim Award Laws, in effect in the several Laender of the U. S. Zone of Occupation for Germany, are scheduled to expire on 1 January 1949, or soon thereafter.

2. Since approval of said General Claims Law cannot be accomplished by 1 January 1949, the proposed effective date, and since it appears desirable and necessary to continue in effect German legislation designed to afford assistance to persecutees until such time as appropriate and final legislation has been approved to replace such provisional Interim Award Laws, the following action is necessary.

3. The directors of the respective Land Offices of Military Government are requested to direct the respective Minister Presidents [in Bremen the President of the Senate] to promulgate by decree pursuant to Military Government Proclamations Nos. 2 and 4, extensions of their respective Interim Award Laws, so as to continue them in force and effect until 31 December 1949, or until the enactment of

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PH-76 - INTERNAL RESTITUTION
Phillips Hawkins
Deputy Economics Adviser

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| REVIEWED BY HQ EUCOM SCREENING TEAM | |
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| Authority | <u>NAD 775057</u> |
| By | <u>Dr</u> NARA Date <u>10/6/99</u> |

333139

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Legal Division
APO 742
Berlin, Germany

OK
WME
3 November 1948

MEMORANDUM

SUBJECT : Constitution of Board of Review
TO : General Clay

File
"Internal Restitution"

1. The Director of the Property Division and the Legal Adviser wish to recommend the following constitution of the Board of Review provided for under Military Government Law No. 59:

Judge Johnson T. Crawford, President
Mr. Fred G. Hulse
Judge Meyer L. Casman
Captain Peter J. Flanagan

2. In recommending the members for the Board the undersigned restricted their consideration to applicants from the European Theater on the understanding that it was your desire to do so if competent personnel could be found here.

3. The persons listed above were chosen from a total of twelve applications received. The persons eliminated, with a brief explanation for their elimination, are listed below:

William R. Rule, Director of the Property Division in Hesse

Rejected on the basis of personal information of the Director of the Property Division, OMGUS

Ralph E. Brown, formerly Chief of German Courts Branch, Legal Division, OMGWB

Rejected on basis of personal knowledge of the Legal Adviser and personnel files.

Mr. David J. Miller

Rejected on the basis of having too low a grade to qualify.

Mr. Jacob J. Karro, member of Legal Division, OMGUS.

Rejected on the basis of essentiality in present job.

Mr. Leo L. Holstein, Deputy Director of the Property Division in Bavaria.

Rejected on the basis of personnel files.

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By *DR* NARA Date *10/6/99*

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Mr. Carl Nussbaum

Rejected on basis of physical disability (eyesight).

Mr. Klaus de Keyserlingk, Deputy Chief of Restitutions
Branch in Karlsruhe

Rejected on basis of essentiality in present employment.

Mr. John J. Cooper, member of Legal Division, OMGUS

Rejected on basis of personal knowledge of Legal Adviser.

The persons recommended were chosen for the following reasons:

Judge Crawford - on basis of 22 years' experience as trial
and appellate judge in State Court in Oklahoma plus nearly
two years with Military Tribunals in Nuernberg.

Captain Flanagan - on basis of splendid legal record in
private practice (10 years) and with Judge Advocate.

Judge Casman - on the basis of your recommendation.

Mr. Hulse - on the basis of his practice of law and primarily
on the basis of his familiarity with Law 59 and Property
Control matters in general.

Phillip Hawkins
PHILIP HAWKINS, Director
Property Division

John M. Raymond
JOHN M. RAYMOND, Col. GSC
Director, Legal Division

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| Authority | <u>NAD 775057</u> |
| By | <u>Dr</u> NARA Date <u>10/6/99</u> |

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Law 59 - Filing Deadline

NON - RECORD MATERIAL

THIS FILE MAY BE RETAINED BY OFFICE AS A WORKING FILE

REVIEWED BY HQ EUCOM SCREENING TEAM.

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Entry PROPERTY DIV

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Box 11

DECLASSIFIED

Authority NND 775057

By DR NARA Date 10/6/99

Benno Ostertag
Lawyer

Stuttgart, 20 December 1948
Stafflenbergstr. 64

TO : General Lucius D. CLAY
OMGUS
Heidelberg

SUBJECT: Art. 56 of the Law No. 59
(Prolongation of the Term of 31 December 1948).

Your Excellency, dear General,

As a man who knows the practice and manages hundreds of cases of the Law No. 59 relative to the persons entitled to restitution, I ask you on behalf of my colleagues, of the entitled persons and of justice to prolong the deadline of Art. 56 of the Law No. 59 by three more months at least.

There are the following reasons for it:

1. Since a quarter of a year only is it possible to correspond by air mail with the persons living abroad who suffered losses. Therefore, the answers to the questions required many months before they could be settled.
2. While considering the matter, it has proved that the most persons who suffered losses, had no papers any more. Either they were not allowed to keep their papers when they emigrated, or their representatives in Germany do not have any papers partly due to the influence of the authorities and partly due to the aircraft damages. In Stuttgart, for instance, all records of former Jewish lawyers were destroyed by aircraft..
3. The records of the authorities were systematically destroyed by order of higher authorities before we were liberated by the Allied. This happened at the Supreme Finance Office which confiscated the property, at the board of assessment which collected the Reich emigration taxes, at the foreign exchange offices which took the last from the emigrants and at the police offices which completed the deportations to the East.
4. The ^{foreign} heirs of the deported persons and their dependents murdered in the concentration camps, do not own any papers and, therefore, depend on the toilsome investigation of their German representatives. The latter ones must carry out a difficult work because the land registries were often destroyed too.

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- 5. The persons living in Israel and in other parts of Palestina, were hindered a long time to file their claims due to the war and the post blocking caused by the war.
- 6. The persons entitled to restitution, living abroad, often did not find any lawyers for protecting their rights because they can/could not pay any retaining fees. As to myself, I act for my clients without having obtained any advanced money, but I have many difficulties due to this fact.

It is difficult to keep the necessary personnel and to meet the expenses caused by the inquiries. Nevertheless, I accepted each person ~~whom I had~~ having suffered losses and being in distress to be my client. But this cannot be expected from other lawyers who do not whole-heartedly feel with the persons who suffered losses. Therefore, these persons had many losses of time until they found the right representative.

- 7. Just the poor in the USA who cannot afford it to have a juridical adviser abroad but who were well off in Germany, suffer the greatest distress.

The persons liable to restitute the property who had to settle their own case only and whose papers were always available and who profited of the confiscated property, - these persons obtained from their Military Government a prolongation of the deadline by three more months in May 1948.

- 8. We, the lawyers, known to the persons having suffered losses as their associates, ~~know~~ nowadays received a lot of new cases. We are physically not able to manage them in due time. We are in danger to become responsible for them and that due to the fact that we must help them.

Therefore, I ask Your Excellency, due to the facts mentioned above, ~~request~~ for prolongation of the deadline by three months at least. I am ready, at any time, to show my records to any authorized representative of yours in order to prove that each fact mentioned above, corresponds to reality.

Very truly yours,

s.: Dr. OSTERTAG

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 Authority NAD 775057
 By Dr NARA Date 10/6/99

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Entry EXT External Assets
File COM Policy [1945-46]
Box 649

DECLASSIFIED
Authority NND 775056
By SR NARA Date 9-3-99

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Comfrey

Safe Haven

Good summary of
basic restrictions
policy - good cites

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file copy

U.S. FOREIGN ECONOMIC THREATS
G-3, Division
Financial Branch

(Data) 470 757
12 September 1948

SUBJECT: The Safehaven Program

TO: Files

1. Definition

"Safehaven" is a convenient term of reference used to describe a program designed to frustrate every attempt to find refuge for assets abroad or to perpetuate Nazi influence outside the boundaries of Germany. It is therefore concerned with German external assets wherever located, wherever acquired, and however held. Safehaven, however, is equally concerned with any other attempts to preserve Nazi or war potentials abroad, whether through propaganda activities, infiltration of technical personnel, or other techniques.

1.1. Basic Provisions

The principles underlying the Safehaven program have been expressed in several public pronouncements, particularly the United Nations Declaration of January 5, 1945, the Cold Declaration of February 22, 1945, and Executive Order Resolution VI.

1. In the Declaration of January 5, 1945 (Annex 50. 1), regarding forced transfers of property in enemy-controlled territory, the United Nations warned all nations and persons, particularly the neutrals, that they intended to defeat the methods of dispossession practiced by the aggressor nations, and to this end reserved the right to declare invalid any transfers of property consummated in occupied territory. This warning applied whether such transfers took the form of open looting or plunder or of transactions apparently legal in form, even when they purported to be voluntarily effected.

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2. The Declaration on Gold Purchases of February 22, 1944 (Annex No. 2), spelled out the application of the above policy with respect to looted gold. The United States Government declared that it would not recognize the transference of title to the looted gold which the Axis at any time held or had disposed of in world markets. It further declared that it was the policy of the United States Treasury not to buy any gold located outside the territorial limits of the United States from any country which had not broken relations with the Axis, or from any country which subsequently acquired gold from any country which had not broken relations with the Axis unless and until the United States Treasury was fully satisfied that such gold was not acquired directly or indirectly from the Axis powers or was not gold which any such country had been or was enabled to release as a result of the acquisition of gold directly or indirectly from the Axis powers.

Similar declarations were issued by the United Kingdom Treasury and by the Union of Soviet Socialist Republics.

3. Paragraph VI of the United Nations Security and Financial Conference at Bretton Woods (Annex No. 3) dealt with two classes of assets, looted and enemy assets belonging to occupied territories on the one hand, and enemy assets on the other. The Governments of neutral countries were called upon to take steps to uncover looted and assets belonging to occupied territories and to hold them for the disposition of post-liberation authorities. The Governments of neutral countries were also called upon to take steps to prevent the fraudulent concealment of enemy assets and to facilitate their ultimate delivery to the post-armistice authorities.

III. Instructions to United States and British Missions

In order to implement the foregoing policies externally, American diplomatic missions were instructed in August 1944 (a) to prepare a register of enemy assets and (b) to report on all enemy persons and make a survey of their activities, giving particular attention to enemy technicians, financial experts, and scientists. These instructions were subsequently

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supplemented and amplified so that detailed reporting is now required of these Missions. With regard to enemy assets the following items have been designated as of particular interest:

1. Bank balances and gold holdings and transfers thereof, whether between central banks or otherwise.
2. Gems, gold privately owned, currency, art objects, stocks of merchandise, etc.
3. Real estate, including leaseholds (e.g., industrial, commercial, mining, agricultural, and residential properties).
4. Securities, including investments in securities of neutral and other governments, as well as industrials.
5. Obligations owing to the enemy in the form of mortgages, bills of exchange, insurance policies, annuities, promissory notes or other evidences of indebtedness or bank credits of any kind.
6. Patents, trademarks and copyrights and transfers, assignments, licenses, etc., in connection therewith.
7. Beneficial interests under trusts or estates of deceased persons.
8. Commercial, industrial, financial or other enterprises which in any way represent enemy assets, listed or otherwise. This item is broadly interpreted to include old as well as new investments of every kind in which an enemy has an interest. Attention is called to the fact that new investments, both open and closed, may represent flight capital or looted assets. Such investments might include holding companies and minority interests in established domestic firms.

With respect to persons, the Missions were requested in the following terms to report all available details concerning enemies, particularly with regard to persons and activities such as the following:

1. Enemy technicians, financial experts or managerial help, particularly recent arrivals, employed by any enterprises irrespective of nationality in your area, or evidence that such persons are attempting

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to place themselves in positions where they could assist in the development of the industrial and military potential of your territory. This would include persons who are being or may be used to develop such potential through the medium of partnership relations, employment connections or by serving in advisory capacities. You should also report on business enterprises with which those persons are associated and also those which have been or allied with the enemy's economic or military organization in the past that they may offer safe havens for enemy skills by providing opportunities for technical experience, research facilities, etc. It is predictable that the persons who are coming within the terms of this instruction will attempt to disguise themselves for a considerable period such as by posing as common laborers and refugees.

- "2. Careful attention should be given to enemy scientists engaged in private, governmental or university research since it is to be expected that such persons will want to maintain and improve their respective skills and keep abreast of any developments in their respective fields by engaging in research work in all countries affording these opportunities."

In September, 1944, instructions were sent to the British Missions regarding enemy assets similar to those mentioned above. The British instructions did not at first cover technicians, financial experts, scientists and the like but were subsequently amended to cover that aspect of safetaven as well.

4. V. Negotiations with the Neutrals

Through diplomatic channels, the neutrals have been approached:

- a. To implement Bretton Woods resolution VI and the Gold Declaration.
- b. To freeze all enemy assets.
- c. To take a census of all blocked assets and to disclose the results of such censuses to the United States and the United Kingdom.

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While some progress has been made in obtaining the cooperation of the neutral nations toward these objectives, their wholehearted support in the implementation of the program has not yet been forthcoming. Negotiations with the neutral nations are continuing with a view toward obtaining their full assistance.

V. Relation of Washington and London to the Safhaven Project

Washington and London are the principal repositories of safhaven intelligence data, much of which were collected for other purposes, e.g., intelligence for economic warfare, intelligence involved in Blacklist cases, financial intelligence, and the mass of intercepts which lie back of this material. Among the basic files in Washington are the Blacklist files of the former Division of World Trade Intelligence of the State Department, which are being reoriented as safhaven files and in which new information is incorporated. Among the Washington agencies actively interested are the State Department, Treasury Department, Department of Justice and FIA. Most of the synthesis, analysis, and recapitulation of basic data is being done in Washington.

The U.S. Embassy in London coordinates safhaven policies (as established in Washington) including negotiations with the neutrals, operating problems and information in the eastern hemisphere with the British authorities. On 20 March 1945, an Enemy Assets Branch was established in the Economic Warfare Division of the London Embassy with responsibility for accumulating and analyzing intelligence on (a) all external enemy assets, including loot, in European countries, and (b) enemy personnel in such European countries, particularly commercial persons and experts who might help in building up Germany's post-hostilities economic and war potential. This Branch was also charged with coordinating with British authorities policies, problems, and flow of intelligence relating to such enemy assets and personnel.

VI. Relation of US Group 45 and G-5 Financial Branch to the Safhaven Project

This relationship has been two-fold: (a) to insure that all external sources of safhaven information are utilized, coordinated, and made available for use within Germany, and (b) to exploit all available sources of information within Germany.

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In the furtherance of the first objective, beginning with February 1945, numerous meetings were held with representatives of the Economic Warfare Division, U.S. Embassy, and with the U.S. Treasury to consider the handling of safehaven matters in London. These meetings covered the background of the safehaven project, the flow of safehaven information, and the functions of London in relation to the program. Agreement was reached on the mechanics of handling safehaven material and the type of carrying to be expected from the Economic Warfare Division. It was agreed that London should be prepared:

- a. To submit schedules of names of persons known or suspected of possessing assets outside of Germany, with a brief summary of pertinent information.
- b. To check names referred to them for further investigation.
- c. To prepare analytical studies.

The actual processing of safehaven material in accordance with the agreed procedure was started on 15 March 1945. On 20 March an office was established at 40 Berkeley Square for the use of Finance Division representatives. The representatives were given access to all safehaven files, all incoming and outgoing safehaven material, were consulted on questions of processing safehaven material, and participated in meetings dealing with safehaven problems. This office was maintained until 30 June.

In order to insure coordination and interchange of information with the British, meetings were held with various British agencies, culminating in a round-table conference on 25 May 1945. Present were representatives of the U.S. Embassy, including the Economic Warfare Division, U.S. Treasury, U.S. Group Control Council, OSS, Roberts Commission, U.S. Staff Operations, British Foreign Office, British Treasury, Trading with the Enemy Department, Control Commission, Germany (British Element), Ministry of Economic Warfare, Economic Advisory Board (Foreign Office and OSS), and CIGS.

This meeting established channels for the interchange of information between the British agencies and the U.S. Embassy. Furthermore, with respect to persons, concerning which there had been little or no liaison with the British, it was agreed that the American and British elements abroad should work

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together, and that the reports should be collected in London for final approval between the Americans and the British. As a consequence of this agreement, considerable work has been done on the preparation of lists of names of persons who might be covered by a repatriation program, the object of which would be to return to Germany from foreign countries German technicians, financial experts, scientists, propagandists and, in general, supporters of Nazis whose activities abroad might well be inimical to the interests and welfare of the United Nations.

The exploitation of sources of information within Germany has so far largely taken the form of the investigation of leading German industrial and financial concerns, such as I.G. Farben, Messerschmitt Werke, Metallgesellschaft, VDF, B. Mess, Henkel et al, Gutehoffnungshütte, Robert Bosch, Kohn and Nees, and Vereinigte Stahlwerke. The plan and current results of these investigations have been reported upon in detail elsewhere. A comparable program for investigating the external assets of financial concerns and leading Nazi figures has been initiated. In the conduct of these investigations extensive use is made of information available within Germany and made available from abroad through safe channels, using the machinery described above. Further use of this information will be made as it can be utilized for other purposes, e.g., in checking reports filed pursuant to the requirements of Law No. 55 against the results of the censuses taken in neutral countries. Conversely, the results of investigations here are promptly made available to Washington, to London, and to other Missions for action in handling newly discovered enemy assets, for use in diplomatic negotiations and for other appropriate action. Liaison is also maintained with the British and other members of United Nations for the interchange of pertinent information.

VII. East European Investigations

The program of the External Assets Investigations Branch calls for two major categories of investigations:

1. Investigations of a limited number of leading German industrial and financial concerns with international connections.
2. Investigations of the external asset holdings of leading Nazi personalities.

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This program leaves uncovered two large segments of Unfrozen Cases:

1. German firms with external assets which do not appear upon the target list.
2. Individuals with external assets who do not conform to the definition of leading Nazi personalities. This list includes many wealthy individuals, particularly those active in the field of finance, who are most likely to have substantial holdings abroad.

Furthermore, an increasing number of requests is being received for spot investigations. Recent examples include:

1. Three requests originating in Brazil. Two of the requests are for information confirming enemy ownership of firms in Brazil in order to insure that the proceeds of liquidation are deposited in the Brazilian Informization Fund (into which are deposited all enemy funds acquired as a result of action taken to eliminate enemy interests in Brazil) and do not find their way back into the hands of pro-German holders. The third is a request for further corroboration of the enemy ownership of a Brazilian concern in order to induce the Brazilian Government to subject the firm to liquidation or forced sale and eliminate the enemy interest.
2. The United States Embassy in Madrid has submitted a lengthy list of firms in Spain reported to be under direct German control. These firms are being investigated in Spain and request has been made of the occupation authorities to obtain additional information regarding the German connections of these firms. The covering memorandum indicates that as the investigations in Spain continue additional requests for information will be made to the Political Adviser's Office. In the covering memorandum reference is made to the Department's circular telegram of July 9, 5 p.m., 1945, which stated that the Department and other interested civilian agencies will request the War Department to make available to AIFULAD copies of material bearing on activities of Germans in certain neutral countries and the American Republics, and it was stated that the Missions would make requests for initial information directly to Ambassador Murphy.

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3. The Alien Property Custodian in Washington has submitted a list of targets in which he is interested for the purpose of proving enemy ownership of certain assets held in the United States.

In order to meet the problems outlined above, on September 8, 1945 a Safeguard Investigations Unit was set up in the Safeguard Section of Internal Assets Investigations Branch. This unit is charged with the responsibility for:

1. Servicing spot requests for information.
2. Following significant leads involving firms and individuals not on the target lists.

It is not contemplated that this unit will engage in major investigations comparable to those of I.S. Patten or Veronight Shalimov. If a preliminary investigation indicates that such a comprehensive investigation may be desirable, the case will be referred back for decision and if decided upon affirmatively the investigation will presumably be undertaken by one of the teams equipped to handle such cases.

VIII. Relations with Foreign Exchange and Blocking Control Branch

The arrangements referred to immediately above were worked out in coordination with the Foreign Exchange and Blocking Control Branch. However, it has been agreed that items in which the latter Branch has an enforcement interest should be forwarded to it through the Safeguard Section. In this connection the Foreign Exchange and Blocking Control Branch has requested that there be routed to it any documents or other material which refer to, or contain clues to, the following:

1. Property located in Germany owned or controlled by persons subject to E.O. Law No. 38 which does not appear to be blocked or which it is felt should be investigated to ensure that it is blocked.
2. Foreign Exchange assets which should be declared or delivered under the provisions of E.O. Law No. 33 when there is reason to believe that they may not have been so declared or delivered.
3. Any transactions which appear to violate the provisions of E.O. Law Nos. 32 or 33.

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In addition to the above, the Foreign Exchange and
Blocking Control Branch is desirous of receiving the names
and addresses of any person, enterprise or agency which
is not presently subject to E.O. Law No. 68, but which on
the basis of the information available it appears desirable
to add block.

Allen J. Fisher
Chief, Safeguard Section.

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ANNEX 3

BRITISH WORDS RESOLUTION VI

Whereas, in anticipation of their impending defeat, enemy leaders, enemy nationals and their collaborators are transferring assets to and through neutral countries in order to conceal them and to perpetuate their influence, power, and ability to plan future aggression and world domination, thus jeopardizing the efforts of the United Nations to establish and permanently maintain peaceful international relations;

Whereas, enemy countries and their nationals have taken the property of occupied countries and their nationals by open looting and plunder, by forcing transfers under duress, as well as by subtle and complex devices, often operated through the agency of their puppet governments, to give the cloak of legality to their robbery and to secure ownership and control of enterprises in the post-war period;

Whereas, enemy countries and their nationals have also, through sales and other methods of transfer, run the chain of their ownership and control through occupied and neutral countries, thus making the problem of disclosure and disentanglement one of international character;

Whereas, the United Nations have declared their intention to do their utmost to defeat the methods of dispossession practised by the enemy, have reserved their right to declare invalid any transfers of property belonging to persons within occupied territory, and have taken measures to protect and safeguard property, within their respective jurisdictions, owned by occupied countries and their nationals, as well as to prevent the disposal of looted property in United Nations territories; therefore

The United Nations Monetary and Financial Conference

1. Takes note of and fully supports steps taken by the United Nations for the purpose of:
 - (a) uncovering, searching, controlling, and making appropriate disposition of enemy assets;
 - (b) preventing the liquidation of property looted by the enemy, locating and tracing ownership and control of such looted property, and taking appropriate measures with a view to restoration to its lawful owners.

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2. RECOMMENDS:

That all Governments of countries represented at this Conference take action consistent with their relations with the countries at war to call upon the Governments of neutral countries

- (a) to take immediate measures to prevent any disposition or transfer within territories subject to their jurisdiction of any
- (1) assets belonging to the Government or any individuals or institutions within those United Nations occupied by the enemy; and
 - (2) looted gold, currency, art objects, securities, other evidences of ownership in financial or business enterprises, and of other assets looted by the enemy; as well as to uncover, aggregate and hold at the disposition of the post-liberation authorities in the appropriate country any such assets within territory subject to their jurisdiction;
- (b) to take immediate measures to prevent the concealment by fraudulent means or otherwise within countries subject to their jurisdiction of any
- (1) assets belonging to, or alleged to belong to, the Government of and individuals or institutions within enemy countries;
 - (2) assets belonging to, or alleged to belong to, enemy leaders, their associates and collaborators; and
- to facilitate their ultimate delivery to the post-war authorities.

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MILITARY GOVERNMENT - GERMANY
UNITED STATES ZONE

August 1945

LAW NO. 53

FOREIGN EXCHANGE CONTROL

ARTICLE I

Prohibited Transactions

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

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

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

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

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

ARTICLE II

Declaration of Property and Obligations

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

ARTICLE III

Delivery of Property

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

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

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

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

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

ARTICLE IV

Applications for Licenses

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

ARTICLE V

Void Transactions

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

ARTICLE VI

Conflicting Law

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

ARTICLE VII

Definitions

11. For the purposes of this law:

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

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

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

ARTICLE VIII

Penalties

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

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as the court may determine.

ARTICLE II

Effective Date

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

BY ORDER OF MILITARY GOVERNMENT

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| Authority | NND 775057 |
| By | TJ NARA Date 7/16/99 |

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INTERNATIONAL REFUGEE ORGANIZATION
~~U.S. Zone Headquarters~~
 APO 62 - U.S. Army

Phone 2525 - Ext 134
 Cable Address: FC IRO Bad Kissingen

7th November, 1948

TO : Property Control and External Assets Branch, OMCUS
 c/o OMCB, APO 633, U.S. Army

Attention: Mr. F. Porter
 Chief of Claims Section

SUBJECT: General Claims Law

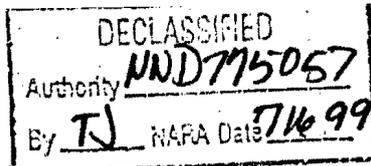
On 28th September, 1948, the Laenderrat in Stuttgart passed the "General Claims Law", which - after promulgation of the "Restitution Law (MG Law No. 59) on 10th November, 1947, by OMCUS - was expected to solve the second part of the general problem of indemnification of political, racial and religious persecutees for sufferings, injuries and damages inflicted by the Nazi Regime.

It was generally understood from the very beginning that on the basis of the German Civil Code (BGB), these persons were legally entitled to compensation greatly exceeding that provided under the present law. Nevertheless, the German State-Commissioners of Persecutees and IRO were prepared to agree to compromises which reduced to a minimum the scope of the Law even before it was submitted by the Drafting Committee to the Laenderrat General Assembly (Directorium). Finally, however, the Laenderrat, by effecting additional changes and modifications, reduced the scope of the Law still further before accepting and finally passing the Law in its present form.

As part of the reduction of the scope of the Law, eligibility has been so restricted as to deny any compensation to persecutees living in IRO Assembly Centers. This is discussed in detail in the Appendix under "Eligibility". The basic discrimination against a group equally eligible, and to which the German Land Governments have the same obligations, is a matter which should receive particular attention in the OMCUS review of this Law.

According to official estimates made by the financial experts of the three Land Governments prior to the deletion of the paragraph concerning DP/Refugees living in Assembly Centers, the compensation of claims coming under

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Paragraph 38, Category I, which enjoy top priority (among others, compensation for confinement) will require 150,000,000 DM (110 millions for Bavaria, 17 millions for Wuerttemberg-Baden, and 23 millions for Greater Hesse). Proposals were submitted to the Laenderrat for the reduction of this figure to 77,000,000 DM or 55,000,000 DM, but it was generally agreed that such a cut would not be justified and that the original estimate of 150,000,000 DM could, and should, be met. This decision clearly indicates that funds are available to meet the settlement of claims under paragraph 38, category I ("Injuries on life and body, compensation for confinement"). Therefore, the intention of the German authorities, which appears in various provisions of the law, to reduce or to postpone this basic and most essential objective by making reference to alleged financial difficulties, is a clear indication of lack of good faith and should be firmly rejected.

Now that the "General Claims Law", as passed by the Laenderrat, is being forwarded to the competent OMCUS authorities for final approval before its promulgation, this Headquarters, in an endeavour to fulfill the responsibilities vested in this Organization by the United Nations Organization, requests the revision of the final resolution of the Laenderrat in order that certain deficiencies of the law should be corrected, and to prevent a new discrimination against DP/Refugees, which the law in its present form would sanction.

The proposals and recommendations submitted in the attached Appendix are in essence based on the last draft of the Law prepared and approved by the Drafting Committee, which was apparently acceptable, not only to the specialists of the Committee and to the representatives of the Parlamentarischer Rat of the Laenderrat. Considering the great importance of this problem, it is respectfully submitted that the recommendations and proposals of this Organization (Appendix I) should receive favourable consideration and action.

For the Chief of Operations:

DAVID H. KIMMEL,
Chief Legal Adviser.

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INTERNATIONAL REFUGEE ORGANIZATION
US ZONE GERMANY

A P P E N D I X

SUBJECT: Observations and Recommendations on the "General Claims Law".

The draft of the "General Claims Law" which prepared and completed by the German Governmental Coordinating Office (Laenderrat) Drafting Committee on the 26th August 1948, after the first rejection of the Bill by the Laenderrat General Assembly (Directorium), was submitted again to the Laenderrat Directorium on 3rd September 1948. This draft was a result of more than one year's negotiations before the Laenderrat Drafting Committee and provided for the compensation for injuries in life and body as well as for political confinement of German and DF/Refugee persecutees. These eligible persons were supposed to receive DM 5 for each day of confinement (DM 150 for each completed month of confinement) in concentration and other detention camps. It was envisaged in this draft that the payment of compensation for confinement will start immediately after the promulgation of the Law. It has to be noted that DF/Refugee persecutees were excluded from compensation for damages in property and in economical opportunity, as it was understood that this question falls within the Problem of reparations.

Although this draft did not provide full and adequate protection and indemnification, the General Claims Law as passed in its present form provides even less protection and indemnification.

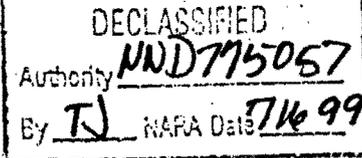
The following observations and recommendations pertaining only to the most important provisions and deficiencies of the law are essential in order to avoid injustice and discrimination:

Eligibility Art 6

Indemnification for injuries and damages will be granted by the Laender of the US Zone according to the place of residence of the claimant on 1st January, 1947 (i.e. not according to the place where the persecution itself occurred). This paragraph in its present form includes:

(1) persecutees who on 1st January, 1947, legally had their permanent residence (Wohnsitz) or normal stay (gewoehnlicher Aufenthalt) within the territory of the Land

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(2) persecutees who died or emigrated prior to 1st January, 1947, but had their last permanent residence (Wohnsitz) or normal stay (gewöhnlicher Aufenthalt) in Germany within the territory of the Land

From the legal point of view DP/Refugees residing in Assembly Centers located within the territory of one of the three Laender have legally a "normal stay" (gewöhnlicher Aufenthalt) in Germany. These DP/Refugee persecutees who suffered together with German persecutees in the same concentration camps and to whom the German Governments have the same obligations, should be entitled to the same benefits under this law. Therefore, all previous drafts prepared by the Laenderrat Drafting Committee contained a special paragraph concerning these persons. (Art. 6 Para. (1) Sec. 3 of the last Draft). This paragraph was deleted by the Laenderrat Directorium before the final approval of the law. In consequence of this, the competent German Courts will interpret the deletion of this particular provision, as expressly excluding DP/Refugee persecutees residing in Assembly Centers, although on the face of the law these persons would be covered by the term "normal stay" (gewöhnlicher Aufenthalt) of Para. 1, above. It is most unfortunate and would constitute a grave discrimination against these persons, if by the deletion of this provision which was inserted in previous drafts in order to clarify the position of DP/Refugee persecutees residing in camps, they would be excluded by an interpretation of the law which would give more weight to legislative intention than to the wording of the law. (Such interpretation would follow German law as distinguished from Anglo Saxon Common law.)

Therefore it is felt that in order to avoid possible misinterpretations, the words "regardless of nationality" should be added to Art. 6 para. (1) Sec 1, which would then read as follows:

"Without prejudice to the obligation of persons liable to pay compensation according to Art. 5, the Land ... will grant compensation if the person who suffered persecution

1. had on the 1st January, 1947, legally his permanent residence (Wohnsitz) or his normal stay (gewöhnlicher Aufenthalt) within the territory of the Land or has been assigned to the Land as a refugee since, regardless of nationality." (underscoring supplied)

Art. 6 Para. (1) should further be amended to include Sec. 3 reading as follows:

3. "was living on the 1st January, 1947, in an

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Assembly Center for Displaced Persons in
the US Occupied Zone of Germany."

Accounting of monetary claims in general. Art. 3.

Claims for monetary compensation for the period prior to 21st June, 1948, will be evaluated in Reichsmarks. The law in its present form provides that these Reichsmark claims will be calculated in Deutsche Marks at the conversion rate of 10:1, established by the Currency Law (MG Law No. 63).

This provision reduces the amount of compensation to such an extent which cannot be justified. The German Civil Code (BGB Art. 249) provides for the reinstatement of the previous status quo (i.e. restitution in kind) as indemnification for property and other damages, or if this would not be possible, the plaintiff can agree to, or the Court can award a monetary compensation amounting to the value of the property concerned. The damages suffered by the claimants in the course of persecution are outstanding claims which originate, and the amount of which will be established by the competent courts in course of the indemnification procedure, i.e. after the Currency Reform of 21 June, 1948. It appears unjustified to devalue the amount of the compensation to a tenth of the value of the original damage, because this would not be equivalent to a reinstatement of the previous status quo.

Inheritance or Transfer of claims. Art. 8 to 12.

The law as passed by the Laenderrat restricts the inheritance of claims of deceased persecutees, by excluding relatives of the third degree and beyond, as well as the State. Claims of no longer existing, or forcibly dissolved organizations, enterprises, societies, etc. can be claimed by such existing organizations with similar aims and purposes, etc., or in exceptional cases also by individual persons, who may be considered as successors of the dissolved organization, provided that the Supreme Court of the Land approves.

MG Law No. 59 (Restitution of Identifiable Property) contains certain articles, providing for the establishment of successor organizations, which though they must not necessarily be the legal heirs, or direct successors of the original claimant, can file the claim on their behalf, without any special court decision, in cases of heirless

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claims, or where the claimant fails to effect his claim, in order to prevent the loss of these claims and to utilize such compensations for the benefit of surviving persecutees and/or altruistic purposes. These successor organizations (as for instance the Jewish Restitution Successor Organization) automatically replace the State as beneficiary.

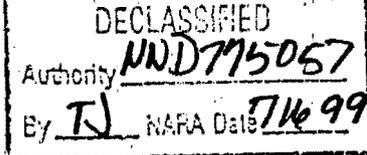
It is felt that the successor organizations, which are authorized to file claims for the restitution of identifiable property instead of the original claimant under MG Law No. 59, should also be entitled to file claims for property damages falling under this law, the same way and within the same limitations as stated above. In addition it has to be noted that though Art. 9 Para. (2) Sec. 1 excludes specifically the State as beneficiary, in consequence of the fact that there are no adequate provisions for successor organizations, the State will benefit nevertheless, by having no obligation to pay compensation to anybody. Therefore there is a great need for the establishment of successor organizations as provided for by MG Law No. 59.

Art. 11 of the "General Claims Law" provides for the transfer of claims by the claimant to certain restricted categories of persons, provided the competent authorities permit such a transfer. With reference to the above and taking into consideration the fact that compensation payments will be apportioned over several years and that many claimants may emigrate in the meantime, without having the possibility of converting or removing these sums received as compensation from Germany under MG Law No. 53, such persons should be enabled to transfer the sums in question to successor or other organizations for safekeeping, or for utilization for certain altruistic purposes. Therefore, the following article, which was accepted by the Drafting Committee, should be inserted in the law again:

Art. 11 Para. (2)

"No permit is needed for the transfer of rights (Sec. 1) to successor organizations within the meaning of Military Government Law No. 59."

Compensation for bodily injuries and for deprivation of freedom. art. 13 - 16.



These articles provide for the compensation of the above injuries in general, while Art. 13 Para. (3) provides for extended monthly rents to be granted to certain surviving relatives (widow, children, etc.) of the deceased claimant.

Considering the fact that in consequence of their prospective emigration the heirs and relatives of persecutees as defined in this provision cannot in all cases make use of rents which will be paid through extended years, a special provision should be inserted for the surviving relatives of DP/Refugee persecutees providing for a lump-sum compensation to these persons.

Art. 15 Para. (5), which prohibits the transfer and inheritance of claims, should be deleted by the same reasons as outlined above.

Priority-sequence of claims. Art. 38 and 39.

Art. 38 of the law determines the priority-sequence according to which the various kinds of claims will be compensated, and established the following three categories:

Category I (The payment of compensation starts as of 1.1.1949)
 Payments for medical treatment.
 Monthly rents to surviving relatives,
 persons with 30% or more disability,
 persecuted public and other officials, etc.
 Half of the compensation for confinement not exceeding IM 3000.

Category II (To be compensated within the next five years).
 Second half of compensation for confinement.
 Compensation for property damages not exceeding IM 10,000 etc.

Category III (To be compensated within the next twelve years).
 Compensation for damages in economical opportunity. Everything which does not come under Category I and II.

The provision in Category I that only half of the compensation for confinement should be paid at once and only to the maximum limit of IM 3,000, while the balance will

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be divided for the next five years (in Category II), would also require a favourable revision. It is felt that a special provision should be inserted to provide for a lump-sum compensation to DP/Refugee persecutees who may emigrate in the near future. (See also remarks in connection with Art. 13 Para. (3) and Art. 15 Para(5) above).

Art. 58 and 39 provide in general that compensation according to the three categories will be effected "to the extent of available funds". This provision, which may defeat the regular appropriation of necessary funds and may imperil the purpose of the law, should be changed.

General Claims Law

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FILE 1

1. ISG STEERING COMMITTEE DISCUSSED GENERAL CLAIMS LAW APRIL 19. US REPRESENTATIVE POINTED OUT INTER-RELATIONSHIP OF GENERAL CLAIMS LAW, ISRAELI SEPARATE CLAIMS AND PROBLEM TRANSFER (RESTITUTION MARKS) REFERENCE TOSIG-535 APRIL 13, REPEATED FRANKFURT 6939, PARIS 5453, TELAVIV 445. HE POINTED OUT DIFFICULTIES INVOLVED IN ATTEMPTING TO DEAL WITH ONE ASPECT OF THIS PROBLEM (GENERAL CLAIMS LAW) IN TERMS OF ALLIED CONDITIONS FOR DERESERVATION OF RESTITUTION POWER. PREVIOUS DISCUSSIONS HAD ALREADY INDICATED IMPOSSIBILITY OF ALLIED AGREEMENT ON THIS POINT. FURTHERMORE, ANYTHING DONE IN THIS GENERAL FIELD WOULD BE REGARDED BY CLAIMANTS AS INADEQUATE. ON OTHER HAND, WHILE RECENT DEBATE IN BUNDESTAG ON GENERAL CLAIMS LAW HAD DEMONSTRATED RECOGNITION OF GERMAN RESPONSIBILITY FOR VICTIMS OF NAZI PERSECUTION, FORCING ANY PARTICULAR PROGRAM ON GERMANS WOULD BE LIKELY TO EVOKE OPPOSITION FROM ALL POLITICAL PARTIES. ALLIES WOULD GET THEMSELVES IN THE MIDDLE AND PROSPECTS OF ANY ACTION BEING TAKEN WHICH WOULD BE SATISFACTORY FROM ANY POLITICAL VIEWPOINT WERE DUBIOUS.

2. US REPRESENTATIVE PROPOSED THAT MATTER BE DEALT WITH INFORMALLY WITH GERMANS AND THAT POLITICAL CONSEQUENCES TO GERMANY OF FAILURE TO TAKE SOME STEPS ON THEIR OWN TO MAKE SOME PROVISION FOR VICTIMS OF NAZI PERSECUTION SHOULD BE POINTED OUT TO THEM. INITIATIVE SHOULD BE GERMANY, NOT ALLIED, AND ACTION TO BE TAKEN SHOULD BE WORKED OUT WITH GERMANS. WHILE ACTION MIGHT FOLLOW LINES OF GENERAL CLAIMS LAW, US REPRESENTATIVE FELT THAT PROGRAM FOR PROVIDING MEANS WHEREBY MARK HOLDINGS OF SUCCESSOR ORGANIZATIONS, PERHAPS TOGETHER WITH ADDITIONAL FUNDS TO BE PROVIDED BY FEDERAL REPUBLIC, COULD BE USED FOR PURCHASE OF GOODS NEEDED IN RE-SETTLEMENT AND REHABILITATION EFFORTS CONDUCTED BY ORGANIZATIONS (NOT GOVERNMENTS) MIGHT BE BETTER SOLUTION.

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PRECEDENCE

3. BRITISH REPRESENTATIVE STATED PROBLEM INVOLVED 2 ASPECTS: 1) PROBLEM OF GENERALIZING AND HARMONIZING GENERAL CLAIMS LEGISLATION; 2) QUESTION WHETHER COMPENSATION SHOULD BE PROVIDED TO NON-RESIDENT PERSECUTEES. AS TO THE FIRST, UK PREPARED TO EXPLORE SOLUTION ALONG LINES FEBRUARY 20 LETTER FROM FEDERAL REPUBLIC TO HIM. UK ATTACHES IMPORTANCE TO POINT THAT, IN CONNECTION WITH DERESERVATION OF RESTITUTION POWER, FEDERAL GOVERNMENT MUST ASSUME GENERAL RESPONSIBILITY FOR GENERAL CLAIMS. AS FOR 2), UK ADHERES TO VIEW THAT COMPENSATION SHOULD BE PAID TO ALL PERSECUTEES WHO LEFT GERMANY PRIOR TO JANUARY 1, 1947. (IT APPEARED FROM SUBSEQUENT CONVERSATION HOWEVER, THAT UK REPRESENTATIVE HAD IN MIND ONLY DPs AND REFUGEES). UK REPRESENTATIVE POINTED OUT GENERAL CLAIMS LEGISLATION ALREADY BEING DISCUSSED BY HICOM WITH FEDERAL REPUBLIC IN CONNECTION WITH DERESERVATION OF POWER REGARDING DPs AND REFUGEES. UK BELIEVES QUESTION CAN BEST BE DISCUSSED IN THAT CONTEXT. FURTHER DISCUSSION IN RELATION TO RESTITUTION POWER THEREFORE UNNECESSARY.

4. FRENCH REPRESENTATIVE POINTED OUT FRANCE HAD REPEATEDLY MADE CLEAR THEY COULD NOT ACCEPT ALLIED REQUIREMENT FOR COMPENSATION WHICH DID NOT INCLUDE ALL VICTIMS OF NAZI PERSECUTION. RELATING QUESTION TO DERESERVATION OF POWER ON DPs AND REFUGEES AND DROPPING IT IN RELATION TO RESTITUTION POWER WOULD PREJUDICE FRENCH POSITION.

5. AFTER LENGTHY DISCUSSION, IT APPEARED THAT THERE WAS NO POSSIBILITY AT THIS TIME OF RECONCILING VIEWS OF 3 GOVERNMENTS AND THAT FURTHER DISCUSSION MUST AWAIT PROPOSALS BY GERMANS AS RESULT OF ALLIED APPROACH IN CONNECTION WITH DPs AND REFUGEES. WHILE BOTH US AND FRENCH REPRESENTATIVES INDICATED DISSATISFACTION WITH LEAVING MATTER IN THIS FASHION, IT PROVED IMPOSSIBLE TO OBTAIN ALTERATION OF UK POSITION. UK REPRESENTATIVE SAID HE DID NOT EXCLUDE POSSIBILITY SOLUTION ALONG LINES SUGGESTED BY US REPRESENTATIVE, BUT MATTER COULD NOT BE CONSIDERED UNTIL GERMANS HAD MADE PROPOSALS AND THESE HAD BEEN STUDIED.

6. IT WAS AGREED TO TRANSMIT REPORT ON RESTITUTION TO GOVERNMENTS (AFTER CERTAIN OTHER OUTSTANDING POINTS HAVE BEEN CLEANED UP) WITH STATEMENT ALONG FOLLOWING LINES ON GENERAL CLAIMS: "IT WAS AGREED THAT DECISIONS BY GOVERNMENTS AS TO UNDERTAKINGS WHICH MIGHT BE REQUIRED IN THIS RESPECT FROM FEDERAL REPUBLIC COULD BEST BE TAKEN AT LATER STAGE WHEN PROPOSALS TO BE MADE BY GERMANS IN CONNECTION WITH SURRENDER OF

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PRECEDENCE

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Box 16
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SUBJECT: General Claims Law
TO : The Chief of Staff

I. DISCUSSION.

1. The Directive on U. S. Objectives and Basic Policies in Germany, of 15 July 1947 [MGR Title 23-2050] reads as follows:

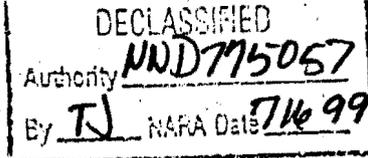
"It is the policy of your government that persons and organizations deprived of their property as a result of National Socialist persecution should either have their property returned or be compensated therefor and that persons who suffered personal damage or injury through National Socialist persecution should receive indemnification in German currency. With respect to heirless and unclaimed property subject to internal restitution you will designate appropriate successor organizations." [Article V, Section 17d]

2. For the purpose of putting this policy into effect, a Special Committee of German property experts was appointed. This Committee prepared the draft of a law providing for the restitution of identifiable property which was enacted as Military Government Law No. 59 on 10 November 1947. A similar Committee subsequently undertook the task of drafting a General Claims Law, designed to compensate persons who suffered personal damage or injury through National Socialist persecution.

3. The Laenderrat has now submitted a request to Military Government to approve the attached Draft Law concerning Redress of National Socialist Wrongs [General Claims Law] dated 28 September 1948, Laenderrat Request L 34-3. [TAB A]

4. Substantially, the law may be considered a measure to provide relief and rehabilitation to victims of National Socialist persecution. Therefore, legislative limitations have been prescribed as to its scope and amount of compensation.

CIVIL ADMINISTRATION DIVISION



TO: The Chief of Staff

This conception differs from that of Military Government Law No. 59, which assumes all transfers of identifiable property under duress circumstances as invalid, and attempts to effect complete restitution thereof. Escheat of heirless property to the state under Military Government Law No. 59 is prohibited. Successor organizations and allowance of claims of even distant heirs were authorized.

The present General Claims Law, consistently with a program of relief and rehabilitation, on the contrary, limits the heirs who may benefit from its provisions to those who would have been dependents, and no provision is made for designation of successor organizations. In short, the present General Claims Law constitutes no more than an attempt to provide some measure of relief and rehabilitation to victims of National Socialism. It does not attempt to provide full compensation or indemnification for the wrongs, damage, and injuries perpetrated by National Socialism which, of course, would make it a true reparations law. However, considering the harm and cost to the entire world of National Socialism, full repayment and reparation would be impossible, and only a measure of indemnification, reasonably feasible under existent German economic and financial conditions, can be insisted upon. Attention may also be invited to the fact, that insistence on full repayment and indemnification would appear to be contrary to U. S. policy regarding reparations from current production.

5. The objections raised by interested organizations, the IRO and the JRSO are of a nature primarily arising from viewing this law as a reparations law. (TAB B).

There undoubtedly is considerable merit to the argument for allowances to Displaced Persons providing sufficient means to enable them to make a fresh start in life either in Germany, or in a new land. However, the demand for compensation of all Displaced Persons, whether presently resident in Germany or elsewhere, might unduly burden the financial and economic structure of Germany.

A similar position appears to be justified with respect to the demand for provision of successor organizations. On this, reference is made to the policy statement of 15 July 1947, (paragraph 1 above), which does not specify a successor organization except for restitution of property.

TO: The Chief of Staff

6. The proposed law requires some draft modifications before approval, or, if approved, it should be with knowledge of these weaknesses.

For example, attention is invited to the sentence in Article 38 which provides that "payment in terms of money pursuant to Part II shall, as far as funds are available be settled by land in the following priority order". This provision would make possible the complete circumvention of the law if the governments decided that no funds were "available".

Provision should further be made for compensation between the Laender to insure that the financial costs of the program would be equitably distributed among the respective Laender (TAB OI).

7. The approval of the law involves a major policy decision regarding Military Government participation in its supervision and operation. The law, as drafted, provides for use of the Central Filing Agency, Restitution Agencies, and the Restitution Chambers established under Military Government Law No. 59 for filing, settlement, and adjudication of claims. The use of these agencies, in connection with the administration and execution of the General Claims Law, would intimately involve Military Government, and might, by reason of the volume of general claims expected, endanger the successful completion of the restitution program under Military Government Law No. 59.

While the Central Filing Agency might be able, after reorganization, to handle the additional work-load under the General Claims Law, it is felt that the Courts and Chambers could not do so satisfactorily.

Even with Military Government participation, separate processing of claims would be administratively justified on the basis of the differences in their nature and decision. Claims for the restitution of identifiable property under Military Government Law No. 59, more substantially require judicial determination than will claims under the General Claims Law, disposition of which can be satisfactorily accomplished by the establishment of administrative agencies and procedures.

8. Of fundamental importance is the determination as to the financial cost involved in the execution of the program and the ability of the German economy to bear

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TO: The Chief of Staff

such cost. This is a matter within the competency of Finance Adviser, as are the questions relating to ratio of conversion from Reichsmarks to Deutsche Marks, and the advisability or necessity of providing for payments on claims over a ten year period.

9. It may also not be inappropriate to suggest that the ultimate position of Military Government with respect to this specific German legislation may well be related to the policies and provisions of the constitution for a central government for Western Germany, and the Occupation Statute now in process of formulation, as these may refer to restitution matters.

10. Finally, attention is invited to the fact that the General Claims Law is intended to replace Interim Awards Law now in effect in the respective Laender, some of which are scheduled to expire on or about 1 January 1949, the effective date of the General Claims Law. Since approval of the General Claims Law cannot possibly be accomplished by this date, it is advisable, and suggestion is here made for the issuance of appropriate instructions designed to secure their extension until 31 December 1949, or until such time as the General Claims Law, or other legislation is approved in their stead. This would serve to prevent loss of rights to persecutees during this interim period.

II. ACTION RECOMMENDED.

11. That this Law be referred to the appropriate authorities constituted or to be constituted to replace the dissolved Laenderrat for modifications in line with the results of this Staff Study or that the Law be approved with reservations respecting modifications to meet indicated objections. (also TAB OI).

12. That revisions be made in the English text of the proposed Law so as to improve same and obtain an acceptable official English translation of the Law.

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

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TO: The Chief of Staff

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

III. CONCURRENCES .

Office of the Finance Adviser

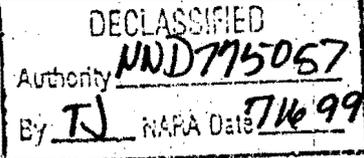
Civil Administration Division

Legal Division

Tel: WIESEBADIEN 21341
Ext 426
(Mr. Porter)

PHILIP S HAWKINS
Director

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TAB B

Objections of Interested Organizations

The objections raised by both the IRO and JRSO are identical. A summary of these objections follows. Copies of the letters received concerning their objections are attached.

1. Article 3.

That monetary claims for the period prior to 21 June 1948 be computed in Reichsmark and converted into Deutsche Mark at the ratio of 10 to 1. IRO and JRSO claim that this is inequitable.

Comments upon this objection involve consideration of impending legislation for equalization of burdens, as well as the question as to what would constitute a just measure of damages. They are considered beyond the scope of Property Control, and matters which can more properly be decided by the Office of the Finance Adviser.

2. Article 6.

Excluding Displaced Persons who are living in Assembly Centers by implication and effect.

This objection has already been commented upon in the General discussion. The additional costs involved by their inclusion, as well as the propriety therefor, in view of the essential policy of the law to provide for some measure of relief, rather than full indemnification or redress of damages, are the policy considerations involved. The opinion of the Office of the Finance Adviser, as to cost and feasibility of the entire program, would provide a basis for a decision on the propriety of such inclusion.

3. Articles 8 - 12.

Providing limitations upon transferability, recognition of claims of legal heirs, and disallowing successor organizations.

Comment - Same as in the case of objections to Article 6 [Item 2, above].

4. Article 38

Providing for a schedule of delayed payments. Again, if intended to facilitate relief and rehabilitation of emigrating Displaced Persons, and feasible, lump payments should be provided for and approved. This is primarily a financial and economic problem involving a decision on the burden to be imposed on the German economy.

333177

OFFICE OF THE UNITED STATES HIGH COMMISSIONER FOR GERMANY

GENERAL LICENSE NO. 10 (AMENDED)
Issued Pursuant to Military Government Law No. 52
(Amended)
Blocking and Control of Property

also known as
GENERAL LICENSE NO. 4 (AMENDED)
Issued Pursuant to Military Government Law No. 53
(Revised)

Foreign Exchange Control

1. A General License is hereby granted under Article II of Military Government Law No. 52 (Amended) and Article I of Military Government Law No. 53 (Revised).

a. Authorizing all transactions within Germany in connection with any claim for restitution filed pursuant to and within the scope of Military Government Law No. 59, provided that

- (1) the transaction is necessary and incidental to the filing, prosecution, defense, waiver, settlement or final adjudication of such a claim;
- (2) the claim for restitution is filed on behalf of a persecuted person or his heir or legatee, or by a successor organization, appointed by Military Government; and
- (3) the claim for restitution is not based on an assignment;

b. Retroactively authorizing the execution and delivery of any waiver of a claim for restitution of identifiable property which is in writing and in express terms, and which was delivered in the period from May 8, 1945 to December 31, 1948 to the restitutor, the appropriate Restitution Authority, or the Central Filing Agency, provided that this shall not license any waiver with respect to a claim for property located in the City of Berlin;

c. Retroactively authorizing any amicable settlement, or adjudication, of a claim, for the restitution of identifiable property, located within the United States Zone of Occupation in Germany, which was executed or made between May 8, 1945 and December 31, 1948, provided that such amicable settlement or adjudication does not relate to property located in the City of Berlin;

d. Authorizing the payment of fees in Deutsche Mark to authorized representatives of claimants for services in connection with their representation of such claimants in negotiations or proceedings concerning claims falling within the scope of Military Government Law No. 59 or the General Claims Laws of the several Laender (Entschädigungsgesetze), such funds to be authorized for use of such representatives in defraying costs incurred within Germany in connection with such representation,

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BY AT HARA DATE 7-22-90
Authority NND 77507
DECLASSIFIED

or for such other use or disposition as is permissible pursuant to applicable laws and regulations including deposit in blocked Deutsche Mark accounts;

e. Authorizing all transactions within Germany in connection with any claim for compensation filed pursuant to and within the scope and provisions of the General Claims Laws (Entschädigungsgesetze) for compensation for personal damage to victims of Nazi Germany provided that the transactions are necessary and incidental to the filing, prosecution, defense, waiver, settlement or final adjudication of such a claim.

2. This General License does not authorize:

a. The debit to any account blocked pursuant to Military Government Law No. 52, unless the account is in the name of and is owned by a necessary party to the restitution proceeding and such debit is for the payment of the necessary obligations of such party arising in connection with such proceeding;

b. The transfer or assignment of title to any property, including funds, located outside Germany, or to any foreign exchange asset located within Germany;

c. The transfer or delivery to any person other than the claimant or his agent of any restituted property; and

d. The export of any property from the United States Zone of Occupation in Germany, including Land Bremen.

3. This General License shall become effective on 18th May 1950 in the Länder Bavaria, Hesse, Württemberg-Baden, and Bremen.

Done at
FRANKFURT-ON-MAIN, on 18 February 1950

JOHN J. McCLOY
United States High Commissioner
for Germany

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BY AT HARA Date 7-22-79
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MILITARY GOVERNMENT-GERMANY
UNITED STATES ZONE

LAW NO. 52
Amended
Blocking and Control of Property

ARTICLE II

Prohibited Transactions

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

(d) Which is a work of art or cultural material of value or importance, regardless of the ownership or control thereof.

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| Date: <i>7/16/99</i> |

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
Public Relations Office
APO 742

(OMGUS - 12 - 27)

Berlin, Germany
10 December 1946

FOR IMMEDIATE RELEASE:

BERLIN, 10 December 1946 -- The revision of U.S. Military Government Law No. 52 with respect to transfer of works of art or cultural material, which was promulgated in September, 1944, shortly after U.S. Troops moved across the German border toward Aachen, was announced today by Brigadier General William H. Draper, Jr., Director of the Economics Division.

The effect of the revised statute is to ease the prohibition against transactions in all cultural materials and "objects of art of value or importance, regardless of ownership". It vests authority in the Minister Presidents to license art dealers in the U.S. Zone, with a proviso report and inventory of works of art or cultural material of value or importance.

The newly framed law permits transactions in art objects and requires objects over 10,000 Reichsmarks to be reported, thus legitimizing one of Germany's important peacetime industries. It will facilitate the export of low-priced paintings and other cultural objects against dollar returns, helping in this way to defray the cost of importing food. In addition, the law is expected to give encouragement to indigenous art which has been largely dormant in Germany since the incursion of National Socialism.

Colonel John H. Allen, chief of the Restitution Branch of the Economics Division, and Mr. R.F. Howard, chief of the Monuments, Fine Arts and Archives Section, who were charged with responsibility of revision of Law No. 52, pointed out that U.S. personnel who purchase works of art which are not for purely personal use, will be violating the Trading with the Enemy Act and Theater Regulations. USFET Circular 140, dated 26 September 1946, applies in those dealings as in others.

The revised statute defines a "work of art or cultural object of value or importance" as "exceeding ten thousand, 10,000 Reichsmarks, and all incunabulae and manuscripts, excluding books printed after the year 1700 A.D."

On 5 January 1943, 18 of the Allied nations, including representatives of governments in exile, met in London and announced an "Inter-Allied Declaration against Acts of Dispossession Committed

in Territories

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in Territories under Enemy Occupation or Control". In substance, these nations went on record to the effect that they reserved the right to declare invalid transfers of property in countries occupied or controlled - directly or indirectly - by Germany. The London Declaration was, in the first instance, a formal reiteration of the historical moral and legal principle that neither the person who steals property nor the one who may later come into possession honestly receives title. It also put the Axis powers on notice that, when the time for reckoning came, even apparently legal transactions - such as Goering's purchases of French art with stolen francs - would be declared null and void.

In September, 1944, Supreme Headquarters Allied Expeditionary Forces promulgated Law 52. It was then that the policy implicit in the London Declaration began to be translated into action.

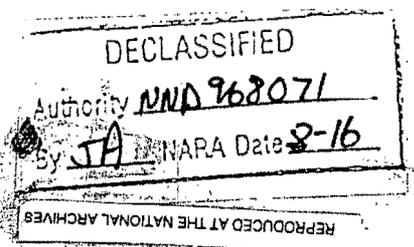
Law 52 made certain property in Germany subject to seizure and management by the military government. Scope of the law was broad. Not only did it cover property owned or controlled - directly or indirectly - by the German government, its political subdivisions, and agencies, but it also extended to the property of organizations and clubs dissolved by the military government, to the property of governments and citizens of any nation at war with the Allied, and to property of absentee owners, including United Nations governments and their citizens.

Law 52 banned transactions in all cultural materials and objects of value or importance, regardless of ownership. The ban also covered property owned or controlled by religious, charitable, educational, cultural, and scientific institutions. Everyone having custody of property covered by the SHAEF law was custody carried specific responsibilities such as preservation, keeping of records, and safekeeping.

DISTRIBUTION "A"

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(RES/MFAA)

Department of Cultural and Art Objects

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1. This section is currently studying the implementation of Law No. 52 with a view to liberalizing the present restrictions. It is hoped that this can be made effective rather shortly.

2. It is the opinion of this section that many of the difficulties enumerated in the basic communication will be nullified.

3. This proposed implementation will be forwarded to your headquarters with a request for concurrence as soon as the paper has been revised.

FOR THE CHIEF, RESTITUTION BRANCH:

1 Incl: Ltr, OMG L. B. LaFARGE
Bavaria, Major AC
dated Chief, MFA&A Section
25 Jun 46

Telephone 42255
Room 1053, Econ Bldg

DMC Files - Mr. Leonard - MFA&A Sect, Rest Br

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OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
APO 170

25 June 1946

SUBJECT: Sale of Cultural and Art Objects

TO : Office of Military Government for Germany (US)
Economics Division, Trade and Commerce Branch,
APO 742, U.S. Army

1. Trade in cultural and art objects normally constitutes an important economic activity in Bavaria, especially in Munich which was considered to be the art centre of Germany. Paragraph 3 (d) of Law No. 52 forbidding the sale or transfer of a "work of art or cultural material of value or importance," except "when licensed or otherwise authorized or directed by Military Government," closed down the legal art trade and created an economic vacuum which became filled by a widespread Black Market in "objects d'art."

2. The economic importance of the Bavarian art trade is obvious from the following data submitted by the Association of Bavarian Art Dealers. Since most of the detailed records of the art trade were destroyed by war action presentation of complete and accurate data is impossible. However, the following figures represent a combination of available data and careful estimates thoroughly prepared by a German committee of four members each representing a separate branch of the art trade. 1913 and 1925 are used to represent typical years of peace whereas 1943 represents the art trade in war time.

| a. | 1913 | 1925 | 1943 |
|---|-----------|----------|-----------|
| Number of firms | 300 | 400 | 400 |
| Number of Employees | 800 | 1100 | 1100 |
| Total turnover in Reichsmark | 100 Mill. | 50 Mill. | 110 Mill. |
| Export in percentage of total turnover | 50% | 40% | --- |
| Number of other persons indirectly employed by art trade (renovators, framemakers, painters, cabinet makers etc.) | 3500 | 4000 | 4000 |

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b. Records of consular invoices as issued by the US Consulate at Munich during the period 1925 to 1930 show the following export figures for the Munich art trade alone:

| | |
|------------|--------------|
| 1925 | \$ 5 000 000 |
| 1926 | \$ 6 000 000 |
| 1927 | \$ 6 000 000 |
| 1928 | \$ 4 000 000 |
| 1929 | \$ 2 335 461 |
| 1930 | \$ 2 011 305 |

3. The above figures clearly indicate that the prohibition against transactions in art has resulted in:

a. Unemployment of a large number of people, directly or indirectly connected with the art trade.

b. Loss of a large export potential considering the infinitesimal quantity of raw material, facilities, etc. required in proportion to the high sale value obtainable.

c. Loss of a large source of revenue to the Bavarian Government in turnover and income taxes.

4. The intent of the embargo on the art trade was to freeze to the present holders and localities the objects of art illegally acquired by Germany and by such freezing implement the process of restitution. It is the opinion of this Office, however, that such restriction has outlived its usefulness and at present actually constitutes a hindrance to the restitution of art treasures and imposes an unnecessary economic hardship.

5. It is recommended that legitimate trade in art objects be permitted for the following reasons:

a. To make use of the potential of Bavarian Art Trade as indicated in paragraphs 2 and 3 above.

b. To effectively curtail transactions in art treasures on the Black Market.

c. To insure that art treasures illegally transferred into Germany, when being offered for sale, will be detected by qualified art dealers, who are best able to recognize such works of art and who will be required to report them to the proper Military Government authorities.

d. To safeguard US Army and Civilian personnel, desirous of purchasing works of art, against exorbitant prices and fraud by making it possible for them to deal with reliable firms.

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Ltr. OMB, "Sale of Cultural and Art Objects," dtd 25 June 46, (Cont'd).

6. To reestablish the legitimate art trade and to implement the work of restitution it is recommended that the following action be taken:

a. Rescission of Par 3 d, Law 52.

b. Require that art dealers be licensed only after close scrutiny indicates that they conform with existing denazification laws and that they are firms of proved reliability.

c. Require that all transfers of art objects be made through licensed art dealers who in turn should be required to keep accurate records, subject to inspection, of all transactions.

d. All enterprises dealing in art and/or cultural objects should be directed to carefully screen all cultural and art objects submitted to them for appraisal, purchase, sale, transfer or barter as to their origin and to report to appropriate Military Government authorities any such objects suspected or recognized as having been illegally brought to Germany from formerly occupied countries.

7. In view of the economic importance of the art trade especially with reference to utilization of its large export potential in the near future, and implementation of the restitution of art treasures, it is requested that the above matter be expedited and a decision made as soon as possible.

FOR THE DIRECTOR,

S.Y. McGIFFERT
Col. FA
Chief, Economics
Division.

Tel: MUNICH MILITARY 2968.

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C o p y

OFFICE OF MILITARY GOVERNMENT FOR BAVARIA
 APO 170

AG 153-MGBER

Restitution Branch
 2 May 1946

SUBJECT: Authorization of Sale of Cultural Objects under Law
 No. 52.

TO : Office of Military Government for Germany (US)
 Economics Division, Restitution Branch, APO 742, US Army
 (Attn: Col. ALLEN).

1. Law No. 52, paragraph 3 (d) forbids the sale or transfer of any "work of art or cultural material" except "when licensed or otherwise authorized or directed by Military Government." Various interpretations of this paragraph have caused unnecessary hardships and a state of confusion in art circles all over Germany. One local city detachment of Military Government has authorized the sale of cultural objects worth less than \$ 50.00 or 500 Reichsmark. Others have ruled that no sales are permissible.

2. However, there has been a constant traffic in paintings and other art objects throughout Germany, which is strictly black market. Reputable dealers cannot afford to engage in this market and yet are constantly tempted by the illegal profits available in the black market.

3. This problem has been discussed with the president of the Art Dealer's Association of Munich, Mr. Böhler. He believes that a reasonable interpretation of Law No. 52 which will permit legal transactions in cultural objects, will partially alleviate present economic conditions amongst the Art dealers and at the same time provide Military Government, through the art dealer's associations and reputable dealers and additional agency for control and check on any traffic in cultural objects sought for restitution.

4. The Monuments, Fine Arts, and Archives Section is in complete accord with this suggestion. Inclosure No. 1 is offered as a recommended modification or definition of Law No. 52. It is requested that this declaration, with such modifications as deemed necessary, be issued as a memorandum of Office of Military Government for Germany (US) or that permission be granted for its issuance.

M.F.A.+A.

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By S2 NARA Date 8-23-90

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Box 267

Ltr. OMGB, "Authorization of Sale of Cultural Objects under Law No. 52" dated 2 May 1946 (Cont'd)

ance locally by the Office of Military Government for Bavaria.

FOR THE DIRECTOR:

S.Y. McGIFFERT
Colonel FA
Chief, Economics Division

Munich Military 3166

1 Incl.: Proposed Declaration

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 By S2 NARA Date 8-23-99

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R E S T R I C T E D

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SUPREME HEADQUARTERS
 ALLIED EXPEDITIONARY FORCE

AG 014.1.1 (Germany)GAP-AGM

APO 757 (Main)
 21 November 1944

SUBJECT: Prohibition of Sale and Export of Works of Art in Germany
 TO : All Concerned

Law 52, Article II, paragraph 3 (d) of Proclamations, Laws and Ordinances, published in connection with the Military Government of Germany, forbids the sale, transfer and export of works of art and other cultural material. Its purpose is to make possible the restoration to their rightful owners of loot taken from other countries. In furtherance of this purpose, personnel of the Allied Expeditionary Forces in occupied German territory will not purchase or otherwise traffic in such objects.

By command of General EISENHOWER:

T.J. DAVIS
 / T.J. Davis
 Brigadier General, USA
 Adjutant General

DISTRIBUTION:

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Paris Conference on
Reparations

AIDE MEMOIRE

1. Reference is made to the British Embassy's memorandum of January 22, 1946 dealing with the proposals of the United States Government for the use of sanctions and inducements in the proposed "safehaven" negotiations.

On October 31, 1945 the Allied Control Council, after extensive discussion, unanimously approved and promulgated its Law No. 5 which vested in the Control Council title to all German external assets, with certain exceptions stated within the text of the law.

In the Paris Conference on Reparations distribution of German external assets was made to the claimant countries participating therein. Included among the German external assets specifically so distributed were German assets in neutral countries. Article 6, paragraph C, of the reparation agreement thus provided that "German assets in those countries which remained neutral in the war against Germany shall be removed from German ownership or control and liquidated or disposed of in accordance with the authority of France, the United Kingdom and the United States of America..." Resolution I, unanimously agreed upon by the Conference, provided: "The Conference unanimously resolves that the countries which remained neutral in the war against Germany should be prevailed upon by all suitable means to recognize the reasons of justice and of international security policy which motivate the powers exercising supreme authority in Germany and the other powers participating in this Conference in their efforts to extirpate the German holdings in the neutral countries."

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On December 21, 1945, the United States Embassy at London was instructed to present to the British Government a statement of measures which might be used to persuade the neutral governments, with whom negotiations are impending, to accord with the Governments of France, the United Kingdom and the United States in agreements which would put into effect Law No. 5 of the Allied Control Council for Germany and the then expected agreement and recommendations of the Paris Conference on Reparations. It was pointed out that the use of measures constituting sanctions should be considered only if agreement could not otherwise be reached that Law No. 5 applies to German assets in neutral countries and that such assets should be made available for reparation purposes. In recognition of a point which it had been understood was considered troublesome by British representatives, some satisfaction of pre-war neutral claims was recognized as being consistent with application of German assets to reparation purposes. It was indicated that a variety of sanctions and inducements were available, that the use of these sanctions would be probably not necessary if a firm position were adopted at the outset, and that the decision as to the extent to which sanctions might be applied would naturally involve the taking into consideration of political and economic considerations existing at that time. It was further pointed out that agreement along these lines would merely constitute a means of implementing Law No. 5 of the Allied Control Council for Germany.

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The memorandum of January 22, 1946, to which reference has been made above, indicates disagreement of the British Government with the position so taken by the Government of the United States not only in general and on principle but with respect to almost all of the measures mentioned as possible inducements or sanctions. The interpretation is placed on Resolution I of the Paris Conference on Reparations that the means proposed by the Government of the United States are not "suitable" within the meaning of that Resolution. The memorandum states the unwillingness of the British Government to subordinate even such considerations as the orderly disposition of surplus military property to the objectives indicated in Law No. 5 and in the Final Act of the Paris Reparation Conference. This attitude minimizes to a great degree the importance of this problem. Nevertheless, the British Government, together with the Government of the United States, has insisted over a period of years that German external assets are not only a probable source of reparation but are also, unless taken out of the hands of present owners, a threat to the peace and security of the world. Recognition of the importance of the problem seemed implicit in the reservation to the lifting of exchange controls, which was introduced by the British representative in Section 8 (ii) (c) of the recent Financial Agreement, in order to preserve the position of the British Government on the possible necessity of continued controls to carry out a "saf haven" program. Resolution I of the Paris Reparation Conference reemphasized the importance of this problem.

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 By SDM NARA Date 8/27/99

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 File GERM Policy
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The Government of the United States therefore feels impelled to state its deep concern and to ask a more adequate explanation of the views and intentions of the British Government with respect to implementation of Law No. 5, of the Final Act of the Paris Reparation Conference, and with respect to the final conclusion of the security programs which have been carried on, with the utmost cooperation of the British Government and the Government of the United States during the course of the war. It is strongly hoped that agreement along lines which have been proposed by the United States Government can be reached.

2. Since the Government of the United States feels that negotiations with the Swiss Government must begin shortly, and with the Governments of Sweden, Spain and Portugal soon thereafter, the British and the French Embassies at Washington have been requested to make known to their respective Governments the desire of this Government to meet with British and French representatives on or about February 15, 1946, and to meet with the Swiss Mission during the first week of March. Concurrence is being sought to presentation of the note, already agreed upon, to the Swiss Government on February 7, 1946. At the same time a note is to be presented to the Swedish Government. It is hoped that in the preliminary discussions, prior to arrival of the Swiss mission, the questions raised hereinabove can be further discussed and resolved. The importance of reaching basic agreement on procedures prior to actual negotiations with the neutral governments cannot be over-emphasized.

Department of State,

Washington.
 February 5, 1946

333193

*Staff Study
(towards Law 59?)*

2232

AG

SUBJECT: Claims for the Restitution of Property and for Damages or Injury Suffered as a Result of Nazi Persecution or Discriminatory Acts.

TO: The Chief of Staff.

I. DISCUSSION

1. This staff study covers the problem of claims for the restitution of property or for damages growing out of Nazi persecution or discriminatory acts based on race, nationality, religious belief or opposition to the National Socialist Party or its doctrine between 31 January 1933 and 8 May 1945. Without attempting to evaluate or establish priority, based largely upon inquiry addressed to the Control Council, Office of Military Government, State Department, and individual military and civilian personnel of this headquarters are listed as the basis for further consideration:

a. The restitution, or the value thereof, of tangible and identifiable property, both real and personal, including works of art, literature and science; intangible property, including stocks, bonds, bank accounts, evidences of indebtedness, and interest in business or commercial enterprises, including patents and patent rights, which have been the subject of transfer under duress or wrongful acts of confiscation, disposition or spoliation, whether pursuant to legislation or by procedure purporting to follow forms of law or otherwise.

b. Claims arising out of the destruction of tangible property, both real and personal, by Nazi inspired mob action, action of the secret police or Nazi party formations.

c. Claims for the restitution of position or office in the public service or private employment from which the claimant was removed or forced to retire under duress or by discriminatory action.

d. Claims for the loss of salary or profits or both from a business, trade, profession or civil service position from which the claimant was excluded through discriminatory action, and claims for the restoration of pensions and pension rights, social security, workmen's compensation, and unemployment insurance.

e. Compensation for taxes, licenses and special fees imposed on a discriminatory basis and fines, "contributions", fees and other such payments made under duress.

*Legal basis
of claims*

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f. Claims for damages as a result of physical injury or disability attributable to acts of persecution, or personal loss as the result of the wrongful death of another.

g. Claims for secured or unsecured debts, including the right of foreclosure where legal recourse to collect such debt was denied by discriminatory action.

h. Claims for rights of inheritance denied by discriminatory action.

i. Claims arising out of other legal rights where such rights were denied by discriminatory action, including rights arising out of marital status, including dower, and similar rights arising out of relations such as parent and child, and guardian and ward.

j. Claims for punitive damages, loss of "goodwill", and claims for "mental" suffering and similar claims.

2232

2. In this study the following types of claims are not included and the use of the word "restitution" is limited to the use indicated in paragraph 1.

It does not include the use of the word in other situations such as : *Governmental Restitution*

a. The restoration of property removed or looted by the Germans from occupied countries. This subject is presently being handled on Central Council level as an adjunct to the larger problem of reparations. The limitation of jurisdiction of the Central Council being the geographic boundaries of Germany as agreed at the Potsdam conference, the Council or any agency of the Council, is limited to claims arising within this area and cannot assume broader powers. As for individual claims for damages or injury as a result of Nazi persecution or discriminatory acts in occupied countries, these claims will have to be handled by the governments of these countries as a part of the claims for reparations.

b. The restitution of the interests of foreign investors in business or commercial enterprises in Germany even though operation of German law may have resulted in practical confiscation of such investment by denying the right to export profits in the form of foreign exchange or the actual seizure of the properties by the Reich or members of the party for utilization in the war effort or for Reich or personal profit and gain. The interests of foreign investors and the loss or dissipation of their investments is subject to consideration on governmental level and in connection with present consideration of reparations to be sought from Germany and the use to which such reparation payments are to be put.

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By KW NARA Date 9/22/90

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3. The Tripartite Conference of Berlin (17 July- 2 August 1945)

reached agreement that pending the final determination of Poland's western frontier, certain territory in east Germany should be under the administration of the Polish state (Section I B). Poland not being represented on the Control Council, it is believed the jurisdiction of the Council and any agency created by it, is limited to that area of Germany which the Council and its four constituent powers govern. In this study only that area of Germany as remains after the tentative agreement above referred to is considered as being within the orbit of Control Council control and jurisdiction. Only such property as has its situs within this restricted area of Germany, or where the cause of action, in claims for damage or injury, arose within this area will be considered.

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Box #635

ANNEX "A"

MILITARY GOVERNMENT - GERMANY

UNITED STATES ZONE

AMENDMENT TO LAW NO. 52

BLOCKING AND CONTROL OF PROPERTY

1. Par. 1(f) of Military Government Law No. 52 entitled "Blocking and Control of Property, Amended (1)", is amended to read as follows:

"(f) Absentee owners of non-German nationality, including United Nations and neutral governments, and Germans outside of Germany."

2. Par. 2 of Military Government Law No. 52 entitled "Blocking and Control of Property, Amended (1)", is amended to read as follows:

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

3. This Law becomes effective 14 July 1945.

BY ORDER OF MILITARY GOVERNMENT.

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By TJ NARA Date 10-1-89 File AG 010.6
Box 635

MILITARY GOVERNMENT - GERMANY
UNITED STATES AREA OF CONTROL

GENERAL LICENSE NO 8, as amended

Issued pursuant to Military Government Law No 52
(Amended)

Blocking and Control of Property

Also known as

GENERAL LICENSE NO 6

Issued pursuant to Military Government Law No 53
Foreign Exchange Control

General License No 8 under Military Government Law No 52 is hereby amended to read as follows:

1. A general license is hereby granted under Article II of Military Government Law 52, and Article I of Military Government Law No 53, authorizing any financial institution to debit on its books the account of any individual, partnership or private corporation, blocked pursuant to Military Government Law No 52, in an amount equal to any principal and amortization payments, interest or commissions which may be due and payable in accordance with the terms of any loan or overdraft granted to the owner of such account by such financial institution prior to the first promulgation of Military Government Law No 52.

2. This general license shall not be deemed to authorize any transaction affecting the accounts of organizations which have been abolished or whose properties have been confiscated by Allied Control Council or by Military Government.

3. This general license shall become effective within the Laender Bavaria, Bremen, Hesse and Wuerttemberg-Baden and, except insofar as it has been issued pursuant to Military Government Law No 53, in the United States Sector of the Greater Berlin Area, on 10 March 1948.

BY ORDER OF MILITARY GOVERNMENT

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MILITARY GOVERNMENT - GERMANYUNITED STATES AREA OF CONTROLGENERAL LICENSE NO. 9Issued Pursuant to Military Government Law No. 52(Amended), Blocking and Control of Property.Also known asGeneral License No. 2 Issued Pursuant toMilitary Government Law No. 53,Foreign Exchange Control.

Notwithstanding the provisions of Military Government Laws Nos. 52 and 53, a General License is hereby granted under these Laws permitting all transactions incident to the transfer of title to property or lease thereof either by voluntary act or through the exercise of the power of eminent domain under the law, in accordance with and for the purposes of the Bavarian Law on Land Reform No. 48 (Gesetz No. 48 zur Beschaffung von Siedlungsland und zur Bodenreform) of 18 September 1946 (Bavarian GVBI. p. 326), the Hesse Law on Land Reform (Gesetz zur Beschaffung von Siedlungsland und zur Bodenreform) of 15 October 1946 (Hessian GVBI. p. 218) and the Wuerttemberg-Baden Law on Land Reform No. 65 (Gesetz No. 65 zur Beschaffung von Siedlungsland und zur Bodenreform) of 30 October 1946 (Wuerttemberg-Baden GVBI. p. 263), provided, however, that:

- a. The transfer is made to the settlement association or person entitled to receive the property under the above named laws,
- b. Compensation paid for any property subject to Military Government Law No. 52 is paid into a blocked account in a financial institution in the United States Zone of Germany in the name of the person who held title to the property,
- c. This license does not authorize transactions with respect to property confiscated by or title to which is vested in the Allied Control Council;
- d. Transfers of property which is subject to disposition, and is subsequently disposed of, by the Allied Control Council under any Control Council enactment or agreement must be set aside and title to such property must be transferred to any grantee designated by Military Government, whenever Military Government determines that the transfer made under this License is inconsistent with the disposition of such property by the Control Council;
- e. Transfers of property subsequently found to be subject to restitution to a former owner or his successor in interest, pursuant to any Restitution Law effective in the American Zone of Occupation, may at any time be set aside by Military Government as null and void;
- f. Any transfer of property of persons outside of Germany, by exercise of right of eminent domain, shall be in accordance with the regulations in respect thereto issued by the appropriate Ministers of Food and Agriculture in coordination with the appropriate Ministers of Justice;

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Subj. "General License No. 9"

- g. In the event transfers are set aside pursuant to paragraphs d and e hereof, laws for the protection of purchasers in good faith shall not be applicable, provided, however, that to the extent to which improvements on the property increase the value thereof at the time the transfer is set aside, the person receiving the property shall compensate the proper party; encumbrances for improvements shall remain valid to the same extent.

BY ORDER OF MILITARY GOVERNMENT:

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LAW NO 52

"ARTICLE II

PROHIBITED TRANSACTIONS

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

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

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MILITARY GOVERNMENT
FINANCE SECTION

5 November 1946

GENERAL LICENSE NO. 5, AS AMENDED,

Issued Pursuant to Military Government Law No. 52
(Blocking and Control of Property)

A general license is hereby granted permitting any institution within Germany dedicated to public worship, charity, education, the arts and sciences, other than institutions of this nature which are engaged in research work, to engage in all transactions ordinarily incidental to its normal activities but otherwise prohibited by Military Government Law No. 52, provided that:

- (a) Such transactions are not prohibited by any law other than Military Government Law No. 52;
- (b) This license shall not authorize any transaction by or on behalf of any agency, organization, person or other entity mentioned in General Order No. 1;
- (c) This license shall not authorize the purchase, sale or transfer of title of real property;
and
- (d) Such institution shall not engage in any transaction, which, directly or indirectly, substantially diminishes or imperils the assets of such institution or otherwise prejudicially affects such assets.

BY ORDER OF MILITARY GOVERNMENT

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Authority

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Entry

390/40/32/3

By

TJ

NARA Date

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GENERAL ORDER NO. 1

Pursuant to Military Government Law 52
Blocking and Control of Property

SUPPLEMENT NO. 1

1. Pursuant to paragraph 1(g) of Military Government Law No. 52, the Deutsche Kriegsversicherungsgemeinschaft is hereby specified as subject to the provisions of said law.

2. The operations of the Deutsche Kriegsversicherungsgemeinschaft are hereby declared suspended by Military Government and by virtue of Article I, General Order No. 1, the provisions of Article IV, paragraph 6, Military Government Law 52 are no longer applicable except as hereinafter provided.

3. The disposal of property or interests in property owned or controlled by the Deutsche Kriegsversicherungsgemeinschaft, whether to satisfy, in whole or in part, an informal claim, a judgement of a court of law, or otherwise, except for the purpose of defraying costs of administration to include damage and claim investigations and such other expenses as are necessary to maintain and complete accurate records of assets, liabilities, and other relative data, shall be deemed to substantially diminish or imperil the assets of said company within the meaning of paragraph 6(a), of Military Government Law No. 52.

4. All suits against the Deutsche Kriegsversicherungsgemeinschaft in German courts based on insurance or reinsurance claims and brought for the purpose of securing or enforcing a judgement shall be abated.

BY ORDER OF MILITARY GOVERNOR

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THE CULTURAL RESTITUTION POLICY OF THE UNITED STATES GOVERNMENT

The cultural restitution policy of the United States Government is based upon American historic policy and the obligations of international law under the Hague Convention (IV) of 1907 and other treaties which prohibit the confiscation, seizure, and pillage of works of art and science during a war or period of military occupation.

The United States cultural restitution policy was implemented in the United States Zone of Germany under Allied and United States policies and procedures, notably Military Government Regulations, Title 18; Monuments, Fine Arts and Archives. The purpose of this program was to restore cultural property looted and dispersed during the war to the former rightful owners.

The United States Government has administered this program solely for the benefit of European countries in the war areas with nothing to gain as no cultural property was lost from the United States.

The established procedures under the cultural restitution program required:

- (1) the filing of claims, by the governments of the country where the object had its original location during the war, with the Office of Military Government (U. S. Zone) and later the office of the U. S. High Commissioner for Germany in the U. S. Zone of Germany;
- (2) evidence to fully establish the identity and ownership of the object claimed;
- (3) proof of looting or theft and details of the circumstances of loss.

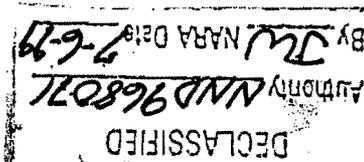
As the cultural restitution program was administered in the U. S. Zone of Germany no claims were received by the Department of State in Washington, until the complete OKMUS-MICOG, Monuments, Fine Arts and Archives files from the American collecting points were transferred to Washington about one month ago.

Claims were submitted for each separate object and restitution was made item by item to the claimant government for return to the rightful owner. A property card for each object which had been taken under U. S. control was prepared at the Central Collecting Points. The property card provided an index of all information and documentation relating to the object and action taken. The validity of each claim was further established by documentation (supplementary to that provided by the claimant government) in the Nazi records of their art transactions. Original copies of the Nazi records were in the possession of the Central Collecting Points and are now in the possession of the Department of State.

The examination of claims, the determination of ownership, and the verification of confiscation from Nazi records, together with identification of the works of art which were claimed, were a part of the established procedures for processing the restitution claims at the Central Collecting Points under

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U. S. jurisdiction. Complete records of all objects restituted under the U. S. program have also been received by the Department.

The administration of the program at the Central Collecting Points required the most exacting scholarship of an art historian and art expert. The American MFASA officers who have served as directors of the Munich and Wiesbaden Central Collecting Points, have been among the leading American museum directors and art authorities in the United States:

- S. Lane Faison, Jr., Chairman of the Department of Art and Director of the Art Museum, Williams College, Williamstown, Mass.;
- Thomas Carr Howe, Jr., Director of the Palace of the Legion of Honor Museum, San Francisco, California;
- Theodore A. Heinrich, Associate Curator of Painting, Metropolitan Museum of Art, New York;
- Herbert S. Leonard (deceased), formerly Associate Director, City Art Museum of St. Louis;
- Edwin C. Raa, Professor of Fine Arts, University of Illinois;
- Craig Hugh Smyth, Director, Institute of Fine Arts, New York University, New York;

If, at any time the restitution of cultural objects under the U. S. program is subject to question or to counter-claims, the United States Government is able to review the restitution of the items in question. Under the terms of the receipt for the cultural objects signed by the accredited representative of the claimant government, "The receiving government undertakes to restore any object which has been delivered to it by mistake." Whether cultural restitution was made by the Commander in Chief in Germany or Austria, by the United States High Commissioner for Germany or by the Secretary of State, each one was acting on behalf of the United States Government. The Department of State has under review two cases of works of art which have been alleged to have been restituted in error.

Following the war, an international policy for the recovery of missing looted works of art, which had been dispersed, was established under an agreement of July 8, 1946. The text of the agreement is given in Appendix I, page 340 of the Department of State Bulletin, vol. XXV, No. 635, August 27, 1951 (enclosure 1)

Italy was invited and agreed to participate in the agreement of July 8, 1946 and to forward lists of missing works of art to the Department in Washington, for circulation in the United States, so that Americans cooperating with the Department would be informed of their loss. No list, however, has ever been received. The Department published in Bulletin for August 27, 1951 (enclosure 1) illustrations of famous masterpieces lost from the Uffizi Gallery on the basis of information received from the American Monuments, Fine Arts, and Archives officers. Paintings of H.R.H. Prince Felix

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By J. M. NARA Date 7-6-79
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