

List of Appendices for Policy Document
(In Chronological Order)

E. O'Connor
Oct. 15, 1999

Front Items: 2 Research Notes + Full Bibliography

1. - The Hague Convention of 1907;
- Summary of Trading with the Enemy Act;
- The London Declaration: Jan. 5, 1943;
- The Morgenthau Plan, 1943
2. - Combined Directive for Military Government in Germany Prior to
Defeat or Surrender, April 28, 1944;
- Excerpts from Handbook for Military Government concerning operating
procedure and mechanics of Property Control, Dec. 20, 1944
3. Crimea Conference Communique: Decisions with regard to Germany
Feb. 3-11, 1945
4. Draft Directive for Treatment of Germany, Mar. 10, 1945
5. Memorandum Regarding American Policy for Treatment of Germany,
Mar. 23, 1945
6. Directive to Commander-in-Chief of U.S. Forces of Occupation Regarding
Military Government of Germany, April 28, 1945 (JCS 1067/6)
7. Declaration Regarding Defeat of Germany and Assumption of Supreme
Authority by Allied Powers, June 5, 1945
8. American Directive on the Military Government of Austria, June 27, 1945
9. USFET Directive to Commanding Generals, excerpt, "Blocking and Control
of Property," July 7, 1945
10. Proclamation No. 1: Military Government - Germany, Supreme Commander's
Area of Control, July 14, 1945
11. - Report on the Tripartite Conference of Potsdam, August 2, 1945;
- Tripartite Conference at Berlin, Dept. of State Bulletin 13, August 5, 1945;
- "A Year of Potsdam," excerpt (undated)
12. Control Council Proclamation No. 2: Certain Additional Requirements Imposed
on Germany, Oct. 29, 1945
13. Allied Control Council Law No. 5, "Vesting and Marshalling of German External
Assets," Oct. 30, 1945
14. Allied Control Council Law No. 1, Sept. 20, 1945; Law No. 2: Oct. 10, 1945;
Proclamation No. 3, Oct. 20, 1945; Law No. 4, Oct. 30, 1945.

15. Directive on Austria, approved by the State-War-Navy Coordinating Committee, Nov. 29, 1945
16. Statement on American Economic Policy toward Germany, Dec. 12, 1945
17. Functions of Allied Kommandatura Berlin, Dec. 21, 1945
18. Allied Control Council Definition of Restitution, Jan. 19, 1946*
19. Final Act and Annex of the Paris Conference on Reparation, Jan. 27, 1946 ^{14?}
20. JCS Directive on Restitution (to certain countries only), Mar. 16, 1946
21. -Plan of the Allied Control Council for Reparations and the Level of Post-War German Economy, Mar. 26, 1946
22. -clay's "first comprehensive review of the German problem," May 26, 1946
Agreement on a Plan for Allocation of a Reparation Share to Non-Repatriable Victims of German Action, June 14, 1946
23. Allied Agreement on Control Machinery for Austria, June 28, 1946
24. Democratization of Germany: A Statement of Policy by General Joseph McNarney, July 9, 1946
25. Stuttgart Address by Sec. of State Byrnes, Sept. 6, 1946
26. Memoranda entitled "Strengthening German Civil Administration in the U.S. Zone," first item undated; second item dated Sept. 30, 1946
27. The (Herbert) Hoover Report, Feb. 26, 1947
28. Proclamation No. 5, Military Government Germany, U.S. Area of Control, June 2, 1947
29. Directive to Commander-in-Chief of U.S. Forces of Occupation, Regarding the Military Government of Germany, July 11, 1947 (JCS 1779)
30. Military Government Law 59, November 10, 1947 (includes regs 1 - 6)
31. N.B.: OUT OF CHRON ORDER:
- Military Government Laws 52 and 53
- Title 17, "Property Control"
32. REFERENCE ITEM: Cumulative Index to Issues A - N of the Military Government Gazette, U.S. Zone

ITEMS STILL NEEDED: Declaration of Gold Purchases, Feb. 22, 1944
 Resolution VI, Bretton Woods, July, 1944
 Title 18 (Date?)
 *ACC Definition of Restitution, March, 1946
 Tripartite Gold Commission, Sept. 27, 1946
 Non-Monetary Gold Directive, Nov. 16, 1946

A Note on Policy: U.S. Military Occupation of Germany
E. O'Connor/Oct. 18, 1999

Property policy was subsumed in the larger category of occupation policy generally; and in that sense alone, the controversies surrounding JCS 1067 merit attention. At some point, we will have to decide whether or not we want to classify JCS 1067 as official policy or not as a basis for deciding the propriety of U.S. Military Government actions vis-a-vis Nazi victim property.

There are three key issues: (1) dissension at top government and military levels at the time JCS 1067 was developed (particularly across the Secretaries of War, State, and Treasury); (2) key transfers of opinion and authority affecting policy development and implementation (e.g., FDR to Truman); and (3) breakdowns between policy and implementation dating back to the official adoption of JCS 1067 (e.g., Cabinet-level policy making versus Clay). (For more details on these points, see Ziemke, 1975: 80-96, 208-224, and 342-365.) Broader issues affecting policy included interactions with the other Allied powers (e.g., France's rejection of unity for Germany); domestic considerations in the U.S. (Zink, 1957: 90) and concerns about the cost of the Occupation; and the fact that the U.S. Zone was relatively poor and relied on imports (Gimbel, 1968: 20, 46, 98). Eventually concerns about the Cold War dominated U.S. policymaking (Zink, 1957: 92).

Some historians argue that the U.S. had no occupation policy (i.e., "a clear-cut and reasonably well integrated set of plans based on a carefully considered and firmly grounded policy decided at the highest political level"; Zink, 1947: 201) until Secretary of State Byrnes's Stuttgart address (Sept., 1946) and JCS 1779 (July 11, 1947). Zink calls Byrnes's address "the first statement of American long-range policy in Germany" (Zink, 1947: 202). According to Zink, the U.S.'s major concern had been winning the war (203). This is confirmed in accounts of policy formulation at the Presidential level (Ziemke, 1975: 106; Zink, 1957: 88) which indicate reluctance to plan for the long term.

Although JCS "legally controlled American activities in Germany from May 1945 until the middle of 1947" (Zink, 1957: 91), it was protested from the outset (Gimbel, 1968: 17) and for some historians had no force whatsoever (e.g., Fainsod, 1948; Zink, 1947). As of April, 1945, FDR no longer backed it (Zink, 1957: 92; see also Ziemke, 1975: 80-96, 208-224 and 342-365; also see attached chronology of JCS 1067). Thus, until the Byrnes speech, there was a major discrepancy between official policy and its administration (Gimbel, 1968: 1). Gimbel (1968, 5) argues that the Potsdam agreement permitted Clay to interpret JCS 1067 (Clay supports this interpretation; 1950: 19, 72; see also Ziemke, 1975: 443 for further support), which had "room for interpretation" (Gimbel, 1968: 8) as he saw fit, i.e., emphasizing the economic unity. (Clay was also concerned about the work involved in any rewriting of JCS 1067; Ziemke, 1975: 443). Potsdam "treated Germany as a single economic unit, by ensuring an equitable distribution of essential commodities through central administrations, by establishing central administrations and common policies to replace the regional autonomy of JCS 1067, and by linking reparations to the requirement that Germany be permitted sufficient resources to subsist without external assistance" (Gimbel, 1968: 16). According to Ziemke, U.S. occupation policy went "full circle" in moving from FM 27-5 (see attached notes) to JCS 1067 and then to Byrnes and JCS 1779 (Ziemke, 1975: 443). Holborn (1947: 71) confirms this view in his description of the Byrnes address as the moment when Potsdam became officially implemented.

The thrust for economic unity, made impossible at the Allied level due to disagreements with France and with the Soviet Union, motivated Clay to establish the Laenderrat and the Bizonal agreement with Great Britain (Gimbel, 1968: 44). These moves had significant implications for property policy and implementation.

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Note on Genesis of JCS 1067
E. O'Connor, Oct. 19, 1999

The main sources used in this note are Ziemke, 1975 and Dorn, 1957 (see last page for full cites). This is intended as an informal note only.

The Hunt report (Ziemke, 1975: 3), based on U.S. military occupation experience in World War I, recognized that the administration of occupied territory was a part of war and that the Army had to develop competence in civil administration.

FM 27-5 (Field Manual of Military Government, 1940) prescribed a military government was "just, humane, and as mild as practicable." The objective was to "obtain enduring peace and convert former enemies into friends" (Ziemke, 1975: 21). However, a Dec. 22, 1943 revision of the handbook no longer stated conversion of enemies into friends as an objective of military government (MG) but "predicted that properly conducted MG could 'minimize belligerency, obtain cooperation, and achieve favorable influence on the present and future attitude toward the U.S. and its allies'" (Ziemke, 1975: 85). However, the version still insisted on "'just and reasonable' treatment of civilians and prompt rehabilitation of economies" (Ziemke, 1975: 85).

According to Ziemke, based on the Hunt Report, FM 27-5, and the schools (especially Charlottesville), American military officers "had a remarkably homogeneous outlook" on fundamental philosophy and policy of military occupation (Ziemke, 1975: 84).

A directive entitled CCS (Combined Chiefs of Staff) 551 had been drafted in April and May, 1944. The CCS represented combined chiefs of staff of the U.S. and Britain. This document was, however, restricted to the pre-surrender period (Ziemke, 1975: 85); in addition, it assumed "an intact surrender" (Ziemke, 1975: 100-101). There was an economic provision giving Eisenhower control over German industry, a provision of which was "to make goods available for restitution and reparations" (Ziemke, 1975: 60). There was also a political guide sent with the directive, stating that MG was to be "'firm...at the same time just and humane with regard to the civilian population as far as consistent with strict military requirements'" (Ziemke, 1975: 59). The purposes were to be "to assist continuing military operations, to destroy nazism and fascism, to maintain law and order, and to restore normal conditions in the population as soon as possible" (Ziemke, 1975: 59).

The most influential document in the preparation of JCS 1067 (with the possible exception of the Morgenthau Plan) was the Military Government Handbook. Handbooks had been prepared before (e.g., the Allied MG of Sicily and Italy, AMGOT, had prepared one, as others had been prepared for liberated countries of Northwestern Europe. These handbooks typically went straight to the military detachments. The main idea of the Handbook was that it would contain the basic information that any military officer would need to know in the field. In this case, a SHAEF planning unit, entitled the German Country Unit, was charged with civil affairs responsibilities in Germany. From May to September of 1944, the GCU was drafting its Military Government Handbook. But this particular one "made an unscheduled detour through the White House" (Ziemke, 1975: 83).

The first draft of the Handbook was completed on June 15, 1944. It contained descriptions of probable conditions in Germany and the organizations and operations of MG. The "heart" was a chapter each on the 12 primary civil affairs: MG functions such as food, finance, etc. Then, for functional specialists, each chapter was expanded upon and

issued separately as a manual. Finally, sample report forms and other basic information were included (the Supreme Commander's proclamation, ordinances, and laws). The proclamation declared Eisenhower as the Supreme Commander, SHAEF and stated his assumption of supreme legislative, judicial and executive power in the occupied territory. The ordinances were as follows: (1) A statement of 19 crimes against Allied Forces punishable by death; (2) The establishment of the MG courts; and (3) The establishment of English as the official language of the MG. There were two categories of laws: Those necessary to establish and maintain MG control; and those dealing with National Socialism. (For further information, see Ziemke, 1975: 83-96).

In the meantime, on August 15, 1944, the Civil Affairs Division (reporting directly to the Secretary of War and responsible for coordinating, for the War Dept., all actions of civilian agencies in the theaters of operations; its job was to plan for civil affairs) proposed a post surrender directive, instructing Eisenhower to maintain a "firm, just and humane" administration (Ziemke, 1975: 85).

In early August, 1944, Secretary of the Treasury Morgenthau "chanced" to read "a State Department paper dealing with postwar policy for Germany, and he was filled with misgivings" (Ziemke, 1975: 86). He obtained a copy of the Handbook. Morgenthau had vehement objections particularly concerning the passages relating to economic rehabilitation (Ziemke, 1975: 86). He raised these objections to FDR, and evidently FDR agreed with him. The Handbook was ordered suspended and recalled (Ziemke, 1975: 87).

The job of rewriting the Handbook went to G-5, SHAEF (the GCU had by now ceased to exist). A hasty revision, acknowledging the temporary nature of the document and even including a number of blank pages, was put forth (Ziemke, 1975: 88). Three main principles were set forth: (1) No steps would be taken towards the economic rehabilitation of Germany except those immediately necessary to support military occupation; (2) No relief supplies would be imported or distributed beyond the minimum necessary to prevent disease and such disorder as would impede military operations; and (3) No active Nazis or ardent sympathizers would be retained in office for the purposes of administrative convenience or expediency. Finally, the Nazi party was dissolved. There were also attempts to reconcile the version with British criticisms (Ziemke, 1975: 88-89). "As a result, the first sentence...ordered military government to do nothing to support the German economy and the second ordered it to require the German authorities to continue the controls that had sustained the economy through the war" (Ziemke, 1975: 89). Another thorny issue concerned denazification policy (Ziemke, 1975: 90).

In the meantime, the post-surrender directive was deemed problematic because an "intact surrender" seemed increasingly unlikely; instead, an "altogether different ending to the war, one which might leave Germany a totally burned-out wreck" (Ziemke, 1975: 100) was anticipated. In late August, 1944, Eisenhower asked to be relieved of economic responsibilities assigned to him under CCS 551. This caused problems for the British (Ziemke, 1975: 101). But the War Dept. decided that a postsurrender directive was imperative--also because of the "handbook controversy." Debates among the War, State and Treasury departments rekindled in early September, 1944. The President formed a "Cabinet Committee on Germany" consisting of the three Secretaries. The War Department objected to the Morgenthau plan of "pastoralizing and partitioning" Germany (Ziemke, 1975: 102). Stimson opposed Morgenthau. But Morgenthau prevailed in Quebec (Ziemke, 1975: 103-104). On September 22, 1944, the three Secretaries completed JCS 1067. It was seen as strictly a short term document (Ziemke, 1975: 104; Foreign Relations of the United States, Conferences at Malta and Yalta, 1945: 143). It bore the Morgenthau imprint (Ziemke, 1975: 104; Dorn, 1957). (Dorn called it "largely a Treasury document": 494; Ziemke takes issue with this statement.) According to Ziemke, with JCS 1067, the

War Department was "not making the Army the instrument for achieving the long-range aims of the Morgenthau Plan, but merely taking from Eisenhower the responsibility during the initial occupation period for preventing an economic collapse, which Eisenhower believed was inevitable" (Ziemke, 1975: 105). The Directive received JCS approval on September 24, 1944. Nonetheless Ziemke calls it a "half hearted" agreement. He notes dissension and objections across the Departments--infringement by War and Treasury on State's policymaking function; the intrusion of the State Department into the authority of Zone Comanders (Ziemke, 1975: 208).

Three days later, FDR called Stimson to say that he did not really intend to make Germany an agricultural nation. In early October, he told Stimson he was "'staggered' to learn that a passage about agriculturalization and pastoralization was in the agreement that he had initialed with Churchill at Quebec (Ziemke, 1975: 106).

On December 1, 1944, Edward R. Stettinius succeeded Cordell Hull as Secretary of State.

On January 13, 1945, JCS 1067 was submitted for tripartite adoption at the European Advisory Commission level, but it was not accepted. Thereafter, it remained strictly a U.S. document.

On March 10, 1945, Stettinius sent FDR a State Department Draft Directive for Germany, citing his responsibility for the conclusions reached at Yalta. On March 13, FDR approved the document (FRUS, 1945, v. III, p. 433). On March 14, the SWNCC discussed the possible rewriting of JCS 1067 in light of the new Directive (the War Dept. wanted Zone Commander latitude). But the March 10 Directive stated that the authority of the Control Council was to be paramount throughout Germany. (The September version responded to Eisenhower's fears about having to hold up the German economy; it made Germans responsible for price controls, food distribution, employment, production, reconstruction, housing, transport, etc.) But the March 10 Directive made economic controls a responsibility of the occupying authorities and assigned power to formulate policy to the Control Council. Stettinius wanted to establish an informal policy committee on Germany under the chairmanship of the Dept. of State and including representatives of the War, Navy, Treasury and the Foreign Economic Administration.

On March 15, Stettinius met with Stimson, Morgenthau, Asst. Sec. of Navy Hensel, and Asst. to Foreign Economic Advisor Henry Fowler. They named representatives to the Informal Policy Committee on Germany (IPCOG). The Chair was Asst. Sec. of State for Economic Affairs, William E. Clayton.

On March 16, Stimson told FDR that the Zone Commander needed complete residual authority in matters that the Control Council did not handle centrally.

On March 20, Morgenthau objected to this idea. Stimson went to FDR. FDR told him that he did not remember the State Department directive (of March 10) and that to his knowledge he had not read it. On March 22, FDR said that the March 10 directive had to be rewritten. He wanted some level of central administration; he also wanted some deindustrialization but he did not want to eliminate German heavy industry. He also said that Quebec was a mistake, and he blamed Churchill for using the word "pastoral," which FDR said was not a word he would have used (Ziemke, 1975: 212).

On March 23, IPCOG met and gave authority to the Control Council but stated that policies were to be carried out by the Zone Commanders. Otherwise Zone Commanders were to decide on matters affecting their own zones and in accordance with directives of their respective governments.

This Directive went to the Ambassador in London the next day with an explanation that it superseded the March 10 Directive. "JCS 1067...went to IPCOG to be rewritten as IPCOG 1 and [became] the directive to the U.S. Commander in Germany" (Ziemke, 1975: 214). The final version was less clear than the March 23 version concerning the role of the Zone Commanders in maintaining controls—but it was not entirely eliminated either, as Treasury had wanted (Ziemke, 1975: 214).

On April 12, 1945, Harry Truman succeeded FDR as President. Truman did not support Morgenthau and wanted to administer Germany as an economic unit (Ziemke, 1975: 342). Morgenthau resigned in July, 1945 when Truman did not invite him to Potsdam.

The JCS amended the directive to allow Eisenhower to continue the production of synthetic rubber and oil, aluminum, and magnesium to meet the needs of the occupying forces. Truman stated that he disagreed with Morgenthau on fundamental issues concerning German industry. On May 14, approved by Truman and with the JCS amendment, the directive went to Eisenhower as JCS 1067/8.

Truman did not support Morgenthau. He wanted to administer Germany as an economic unit (Ziemke, 1975: 342). Morgenthau resigned in July, 1945 when Truman made it clear that Morgenthau would not go to Potsdam.

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Clay called JCS 1067 "a short-term guide" and not "an ultimate statement of policy" (p. 17).

He called Potsdam "The most important document bearing on the German problem" from 1945-1949 (p. 39, see also pp. 40-42).

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(Also: The Foreign Relations of the United States series is a key source also; year and volume numbers are indicated at the top of each page.)

Appendix 3

CONVENTION RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND***Also known as the "Hague Convention of 1907"****(Preamble; Convention; Annex, Section 2, Chapter 1:****Articles 27–28, and Section 3: Articles 46–47, 53, 55–56)***Signed at The Hague, October 18, 1907; entry into force, January 26, 1910**(List of Contracting Parties)*

Seeing that, while seeking means to preserve peace and prevent armed conflicts between nations, it is likewise necessary to bear in mind the case where the appeal to arms has been brought about by events which their care was unable to avert;

Animated by the desire to serve, even in this extreme case, the interests of humanity and the ever progressive needs of civilization;

Thinking it important, with this object, to revise the general laws and customs of war, either with a view to defining them with greater precision or to confining them within such limits as would mitigate their severity as far as possible;

Have deemed it necessary to complete and explain in certain particulars the work of the First Peace Conference, which, following on the Brussels Conference of 1874, and inspired by the ideas dictated by a wise and generous forethought, adopted provisions intended to define and govern the usages of war on land.

According to the views of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war, as far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants.

It has not, however, been found possible at present to concert regulations covering all the circumstances which arise in practice;

On the other hand, the High Contracting Parties clearly do not intend that unforeseen cases should, in the absence of a written undertaking, be left to the arbitrary judgment of military commanders.

Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.

They declare that it is in this sense especially that Articles 1 and 2 of the Regulations adopted must be understood.

The High Contracting Parties, wishing to conclude a fresh Convention to this effect, have appointed the following as their Plenipotentiaries:

(Here follow the names of Plenipotentiaries)

Who, after having deposited their full powers, found in good and due form, have agreed upon the following:

Article 1

The Contracting Powers shall issue instructions to their armed land forces which shall be in conformity with the Regulations respecting the Laws and Customs of War on Land, annexed to the present Convention.

Article 2

The provisions contained in the Regulations referred to in Article 1, as well as in the present Convention, do not apply except between

Hague Convention of 1907
(excerpts only)

Contracting Powers, and then only if all the belligerents are parties to the Convention.

Article 3

A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

Article 4

The present Convention, duly ratified, shall as between the Contracting Powers, be substituted for the Convention of the 29th July, 1899, respecting the Laws and Customs of War on Land.

The Convention of 1899 remains in force as between the Powers which signed it, and which do not also ratify the present Convention.

Article 5

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be immediately sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph the said Government shall at the same time inform them of the date on which it received the notification.

Article 6

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

Article 7

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

Article 8

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

Article 9

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 5, paragraphs 3 and 4, as well as the date on which the notifications of

adhesion (Article 6, paragraph 2) or of denunciation (Article 8, paragraph 1) were received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[The following states signed the convention October 18, 1907:]

Argentina	Luxembourg
Austria-Hungary (Res.) ¹	Mexico
Belgium	Montenegro (Res.)
Bolivia	The Netherlands
Brazil	Norway
Bulgaria	Panama
Chile	Paraguay
Colombia	Persia
Republic of Cuba	Peru
Denmark	Portugal
Dominican Republic	Romania
Ecuador	Russia (Res.)
El Salvador	Serbia
France	Siam
Germany (Res.)	Sweden
Great Britain	Switzerland
Greece	Turkey (Res.)
Guatemala	United States of America
Haiti	Uruguay
Italy	Venezuela
Japan (Res.)	

ANNEX TO THE CONVENTION REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND

Section 2. Hostilities

Chapter 1. Means of Injuring the Enemy, Sieges, and Bombardments

Article 27

In sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.

It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand.

Article 28

The pillage of a town or place, even when taken by assault, is prohibited.

Section 3. Military Authority over the Territory of the Hostile State

Article 46

Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated.

Article 47

Pillage is formally forbidden.

Article 53

An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depôts of arms, and, generally, all kinds of ammunition of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made.

Article 55

The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

Article 56

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

* Convention Respecting the Laws and Customs of War on Land, Oct. 18, 1907, 36 Stat. 2277; 1 Bevens 631.

1. "Res." refers to states that signed under reservations.

change could be made. It was accordingly decided that only the text of the declaration should be released here and that no publication should be made by this Government of the note.

Please advise the appropriate official of the Foreign Office in the sense of the foregoing, explaining that this Government naturally does not consider itself bound by the interpretative note. While we assume the language referred to was the result merely of inadvertence, we wish to be sure that there be no misunderstanding as to this Government's position.

HULL

740.00113 European War 1939/784: Telegram

The Chargé in the United Kingdom (Matthews) to the Secretary of State

LONDON, March 12, 1943—2 p. m.
[Received March 12—1 p. m.]

1760. Department's 860, February 8, 9 p. m. The appropriate official of the Foreign Office (Ward)¹⁹ has been informed of the substance of the above telegram and it was made clear that the United States Government does not consider itself bound by the explanatory memorandum for the guidance of press and radio on the declaration on property transfers in enemy-dominated countries.

In informal conversation he explained that the change in paragraph 5 of the explanatory memorandum on the declaration on transfers of property in enemy-dominated territories was made to avoid giving the impression that the French National Committee were recognized as a government. He emphasized that the operative instrument in relation to commitments for the parties concerned is the declaration itself and not the explanatory memorandum. The status of the latter is only that of a communiqué to the press and public.

The Foreign Office official said that the reference in paragraph 5 of the explanatory memorandum to the parties being "mutually pledged to assist one another as may be required" arose out of the last paragraph of the declaration itself. The origin of that paragraph was explained in section (1) of Embassy's 5422, September 29,²⁰ in the paragraph immediately following the text of the declaration.

While expressing regret that anything in the explanatory memorandum may have created embarrassment for the Department, the Foreign Office official expressed confidence that difficulties would not be likely to arise in practice, since it may be hoped that when the

¹⁹ John G. Ward, Acting First Secretary, British Foreign Office.

²⁰ *Foreign Relations*, 1942, vol. I, p. 77.

time comes after victory to implement the declaration there will be a recognized government of France.

MATTHEWS

740.00113 European War 1939/1006

*Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control: Interim Report of Inter-Allied Sub-Committee of Experts*²¹

[Extract]

PART II.—SUMMARY OF THE LEGISLATION OF EACH COUNTRY

THE UNITED STATES OF AMERICA

1. By Section 5(b) of its Trading with the Enemy Act as amended²²—

Power is conferred on the President of the United States during time of war or national emergency to investigate, regulate, direct and compel, nullify, void, prevent or prohibit any transfer or dealing which involves any property in which any foreign country or national thereof has an interest; he may exercise these powers with respect to any transfer or dealing wherever effected, which involves any property or any person subject to the jurisdiction of the United States. The President is empowered to vest any property or interest of any foreign national or country. Authority is conferred upon the President to define all of the terms employed in said section.

These powers of the President have been made available by delegation to the Secretary of the Treasury and the Alien Property Custodian.

2. General Ruling No. 12, issued by the United States Treasury Department²³ under the authority of the said Act, provides that, except as licensed by the Treasury—

Any transfer, effected after freezing control was extended to a country, of property in a "blocked account" of that country or of any national thereof, is null and void.

The word "transfer" includes, with certain exceptions, any acts or transactions effected outside as well as in the United States which may convey or surrender any right or power with respect to prop-

²¹ Copy transmitted to the Department by the Ambassador in the United Kingdom in his despatch No. 10401, July 29; received August 5.

²² Act of October 6, 1917 (40 Stat. 415) as amended by Title III of the First War Powers Act, 1941; 55 Stat. 838.

²³ Treasury Department, *Documents Pertaining to Foreign Funds Control*, March 30, 1944, p. 36.

Trading w/ Enemy Act
(summary - updated)

erty. The expression "property" in General Ruling No. 12 includes, in general, money, bullion, securities, financial instruments, book debts and written contracts, but not as a rule real property or chattels. The exclusion in general of real property or chattels does not necessarily mean that the United States Government considers such transfers to be valid; such exclusion merely means that no formal statement with respect to the invalidity of such transfer has been issued.

3. Pursuant to powers contained in the said Act, freezing control is applied mainly under Executive Order 8389 as amended²⁴ and regulations issued thereunder. The freezing orders, in general, prohibit the following transactions if they involve any "blocked" country or national thereof or any property in which any "blocked" country or national thereof has an interest or any payment or transfer expressed in terms of the currency of such country: all transfers of credit, or payments involving banking institutions within the United States; all foreign exchange transactions; all dealings in securities (including securities physically situated outside the United States); all exports from the United States or earmarking within the United States of gold or silver, coin, bullion, or currency. The term "banking institution" is so broadly defined as to include anyone holding a credit for another as a direct or incidental part of his business.

Any transaction prohibited by the freezing orders may be licensed by the Treasury.

The following are "blocked" countries:—

Norway, Denmark, The Netherlands, Belgium, Luxemburg, France (including Monaco), Latvia, Estonia, Lithuania, Roumania, Bulgaria, Hungary, Yugoslavia, Greece, Albania, Andorra, Austria, China, Czechoslovakia, Danzig, Finland, Germany, Hong Kong, Italy, Japan, Liechtenstein, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, Thailand, U.S.S.R., and any area which has been under the occupation or control of any of the foregoing countries at any time after such occupying or controlling country has been blocked.

The U.S.S.R. and the four European neutral countries (Portugal, Spain, Sweden and Switzerland) have each been granted a general licence under the freezing orders. The general licence granted to the U.S.S.R. effectively unblocks that country and its nationals, but does not validate any acts effected under Axis occupation.

Persons whose names are on the Proclaimed List of Certain Blocked Nationals are treated as enemy nationals for the purposes of the freezing orders for such time as their names appear on such List.

²⁴ For text of Executive Order No. 8389 (3 CFR 128 (Supp. 1940)) as amended by Executive Order No. 8785 (3 CFR 225 (Supp. 1941)), with amendments effected after June 14, 1941, indicated by footnotes, see *Documents Pertaining to Foreign Funds Control*, March 30, 1944, pp. 5-10.

4. Control over securities has been established under other prohibitory measures issued by the United States Treasury. Any securities or currency imported into the United States must be reported to and deposited with specified Government agencies. It is illegal to receive or hold any such currency or securities without specific authorisation of the Treasury.

Further, no security to which a tax or other stamp or notarial seal of a foreign country has been attached may be dealt with in the United States unless a certificate has been attached to the security by the authority of the United States Treasury.

No transfer or dealing with respect to any security registered or inscribed in the name of a blocked country or national thereof may be effected without a licence from the Treasury.

To prevent looting, special measures have been taken to prohibit dealing in any Philippine currency or securities.

5. The Alien Property Custodian is empowered to take such action as he deems necessary in the national interest with respect to business enterprises, patents, ships, or vessels and certain other property in the United States where such property is affected with the interest of a foreign or enemy national. The Custodian has (*inter alia*) power to direct, manage, supervise, control or vest any such property.

6. General legal principles in the United States would suggest that, if transfers and dealings referred to in the Inter-Allied Declaration were wilfully contrary to the prohibitory regulations discussed herein, they would be determined by the courts to be invalid, and, in any event, the Executive Branch of the United States Government could legally invalidate such transfers and dealings. It is to be noted that under Section 3(a) of the said Act and General Ruling No. 11²⁵ all transactions involving trade or communication with an enemy national are prohibited unless licensed.

740.00113 European War 1939/1102 : Telegram

The Ambassador in the United Kingdom (Winant) to the Secretary of State

LONDON, October 8, 1943—8 p. m.

[Received October 9—12:50 p. m.]

6833. An indication of the attitude of the Soviet [Union] towards Poland was given here on October 7 at a meeting of the Subcommittee on Axis Acts of Dispossession. This subcommittee was appointed immediately after the signing on January 5, 1943 of the Inter-Allied

²⁵ *Documents Pertaining to Foreign Funds Control*, March 30, 1944, p. 21.

Simpson 1997

Jan 5, 1943

APP

Appendix 9

INTER-ALLIED DECLARATION AGAINST ACTS OF DISPOSSESSION COMMITTED IN TERRITORIES UNDER ENEMY OCCUPATION OR CONTROL*

Also known as the "Declaration of London"

January 5, 1943

The Governments of the Union of South Africa; the United States of America; Australia; Belgium; Canada; China; the Czechoslovak Republic; the United Kingdom of Great Britain and Northern Ireland; Greece; India; Luxemburg; the Netherlands; New Zealand; Norway; Poland; the Union of Soviet Socialist Republics; Yugoslavia; and the French National Committee:

Hereby issue a formal warning to all concerned, and in particular to persons in neutral countries, that they intend to do their utmost to defeat the methods of dispossession practised by the Governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled.

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

The Governments making this Declaration and the French National Committee solemnly record their solidarity in this matter.

* Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control, 8 DEP'T ST. BULL. 21 (1943).

Appendix 10

UNESCO CONVENTION AND PROTOCOL FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT*

Also known as the "Hague Convention and Protocol"

Done at The Hague, May 14, 1954; entry into force, August 8, 1956

The High Contracting Parties,

Recognizing that cultural property has suffered grave damage during recent armed conflicts and that, by reason of the developments in the technique of warfare, it is in increasing danger of being destroyed;

Being convinced that damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of mankind, since each people makes its contribution to the culture of the world;

Considering that the preservation of the cultural heritage is of great importance for all peoples of the world and that it is essential that this heritage should receive international protection;

Guided by the principles concerning the protection of cultural property during armed conflict, as established in the Convention of The Hague of 1899 and of 1907 and in the Washington Protocol of April, 1935;

Being of the opinion that such protection cannot be effected unless both national and international measures have been taken to organize it in time of peace;

Being determined to take all possible steps to protect cultural property;

Have agreed upon the following provisions:

Chapter I. General provisions regarding protection

Article 1. Definition of cultural property

For the purposes of the present Convention, the term "cultural property" shall cover, irrespective of origin or ownership,

- (a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites, groups of buildings which, as a whole, are of historical interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives and of reproductions of the property defined above;
- (b) buildings whose main and effective purpose is to preserve, exhibit the movable cultural property defined in sub-paragraph (a); such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, movable cultural property defined in sub-paragraph (a);
- (c) centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as "centres of cultural heritage".

Article 2. Protection of cultural property

For the purposes of the present Convention, the protection of cultural property shall comprise the safeguarding of and respect for such property.

Article 3. Safeguarding of cultural property

The High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their territory against the foreseeable effects of an armed conflict, by such measures as they consider appropriate.

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August 1943

GERMANY¹

16. DECLARATION OF WAR WITH GERMANY, DECEMBER 11, 1941

JOINT RESOLUTION Declaring That a State of War Exists Between the Government of Germany and the Government and the People of the United States and Making Provision to Prosecute the Same²

Whereas the Government of Germany has formally declared war against the Government and the people of the United States of America: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Government of Germany which has thus been thrust upon the United States is hereby formally declared; and the President is hereby authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Government of Germany; and, to bring the conflict to a successful termination, all of the resources of the country are hereby pledged by the Congress of the United States.

Approved, December 11, 1941, 3:05 p. m., E. S. T.

87. THE MORGENTHAU PLAN, 1943

Program To Prevent Germany From Starting a World War III³

I. Demilitarization of Germany

It should be the aim of the Allied Forces to accomplish the complete demilitarization of Germany in the shortest possible period of time after surrender. This means completely disarming the German Army and people (including the removal or destruction of all war material), the total destruction of the whole German armament industry, and the removal or destruction of other key industries which are basic to military strength.

II. New Boundaries of Germany

- Poland should get that part of East Prussia which doesn't go to the U. S. S. R. and the southern portion of Silesia.
- France should get the Saar and the adjacent territories bounded by the Rhine and the Moselle Rivers.
- As indicated in 4 below an International Zone should be created containing the Ruhr and the surrounding industrial areas.

¹ Documents on the problems of war criminals, dismantling and reparations will be found in Part VIII, below.

² 55 Stat. 796.

³ This memorandum was printed as the first few pages of Henry Morgenthau, Jr., *Germany Is Our Problem*, Harper and Brothers Publishers, New York and London, 1945. Although it was taken to Quebec by President Roosevelt and Mr. Morgenthau in August 1943 and there provisionally approved by President Roosevelt, it was never adopted as the policy of the United States nor was

3. Partitioning of New Germany

The remaining portion of Germany should be divided into two autonomous, independent states, (1) a South German state comprising Bavaria, Wuerttemberg, Baden and some smaller areas and (2) a North German state comprising a large part of the old state of Prussia, Saxony, Thuringia and several smaller states.

There shall be a custom union between the new South German state and Austria, which will be restored to her pre-1938 political borders.

4. The Ruhr Area.

(The Ruhr, surrounding industrial areas, as shown on the map, including the Rhineland, the Keil Canal, and all German territory north of the Keil Canal.)

Here lies the heart of German industrial power: This area should not only be stripped of all presently existing industries but so weakened and controlled that it cannot in the foreseeable future become an industrial area. The following steps will accomplish this:

(a) Within a short period, if possible not longer than 6 months after the cessation of hostilities, all industrial plants and equipment not destroyed by military action shall be completely dismantled and transported to Allied Nations as restitution. All equipment shall be removed from the mines and the mines closed.

(b) The area should be made an international zone to be governed by an international security organization to be established by the United Nations. In governing the area the international organization should be guided by policies designed to further the above stated objective.

5. Restitution and Reparation

Reparations, in the form of future payments and deliveries, should not be demanded. Restitution and reparation shall be effected by the transfer of existing German resources and territories, e. g.,

(a) by restitution of property looted by the Germans in territories occupied by them;

(b) by transfer of German territory and German private rights in industrial property situated in such territory to invaded countries and the international organization under the program of partition;

(c) by the removal and distribution among devastated countries of industrial plants and equipment situated within the International Zone and the North and South German states delimited in the section on partition;

(d) by forced German labor outside Germany; and

(e) by confiscation of all German assets of any character whatsoever outside of Germany.

6. Education and Propaganda

(a) All schools and universities will be closed until an Allied Commission of Education has formulated an effective reorganization program. It is contemplated that it may require a considerable period of time before any institutions of higher education are reopened. Meanwhile the education of German students in foreign universities will not

(b) All German radio stations and newspapers, magazines, weeklies, etc. shall be discontinued until adequate controls are established and an appropriate program formulated.

7. Political Decentralization

The military administration in Germany in the initial period should be carried out with a view toward the eventual partitioning of Germany. To facilitate partitioning and to assure its permanence the military authorities should be guided by the following principles:

(a) Dismiss all policy-making officials of the Reich government and deal primarily with local governments.

(b) Encourage the reestablishment of state governments in each of the states (Länder) corresponding to 18 states into which Germany is presently divided and in addition make the Prussian provinces separate states.

(c) Upon the partition of Germany, the various state governments should be encouraged to organize a federal government for each of the newly partitioned areas. Such new governments should be in the form of a confederation of states, with emphasis on states' rights and a large degree of local autonomy.

8. Responsibility of Military for Local German Economy

The sole purpose of the military in control of the German economy shall be to facilitate military operations and military occupation. The Allied Military Government shall not assume responsibility for such economic problems as price controls, rationing, unemployment, production, reconstruction, distribution, consumption, housing, or transportation, or take any measures designed to maintain or strengthen the German economy, except those which are essential to military operations. The responsibility for sustaining the German economy and people rests with the German people with such facilities as may be available under the circumstances.

9. Controls over Development of German Economy

During a period of at least twenty years after surrender adequate controls, including controls over foreign trade and tight restrictions on capital imports, shall be maintained by the United Nations designed to prevent in the newly-established states the establishment or expansion of key industries basic to the German military potential and to control other key industries.

10. Agrarian program

All large estates should be broken up and divided among the peasants and the system of primogeniture and entail should be abolished.

11. Punishment of War Crimes and Treatment of Special Groups

A program for the punishment of certain war crimes and for the treatment of Nazi organizations and other special groups is contained in section 11.

12. Uniforms and Parades

(a) No German shall be permitted to wear, after an appropriate period of time following the cessation of hostilities, any military uniform or any uniform of any quasi military organizations.

(b) No military parades shall be permitted anywhere in Germany.

13. Aircraft

All aircraft (including gliders), whether military or commercial, will be confiscated for later disposition. No German shall be permitted to operate or to help operate any aircraft, including those owned by foreign interests.

14. United States Responsibility

Although the United States would have full military and civilian representation on whatever international commission or commissions may be established for the execution of the whole German program, the primary responsibility for the policing of Germany and for civil administration in Germany should be assumed by the military forces of Germany's continental neighbors. Specifically, these should include Russian, French, Polish, Czech, Greek, Yugoslav, Norwegian, Dutch, and Belgian soldiers.

Under this program United States troops could be withdrawn within a relatively short time.

88. SURRENDER BY GERMANY¹

Act of Military Surrender, May 8, 1945

1. We the undersigned, acting by authority of the German High Command, hereby surrender unconditionally to the Supreme Commander, Allied Expeditionary Force and simultaneously to the Supreme High Command of the Red Army all forces on land, at sea, and in the air who are at this date under German control.

2. The German High Command will at once issue orders to all German military, naval and air authorities and to all forces under German control to cease active operations at 2301 hours Central European time on 8th May 1945, to remain in the positions occupied at that time and to disarm completely, handing over their weapons and equipment to the local allied commanders or officers designated by Representatives of the Allied Supreme Commands. No ship, vessel, or aircraft is to be scuttled, or any damage done to their hull, machinery or equipment, and also to machines of all kinds, armament, apparatus, and all the technical means of prosecution of war in general.

3. The German High Command will at once issue to the appropriate commanders, and ensure the carrying out of any further orders issued by the Supreme Commander, Allied Expeditionary Force and by the Supreme High Command of the Red Army.

4. This act of military surrender is without prejudice to, and will be superseded by any general instrument of surrender imposed by, or on behalf of the United Nations and applicable to GERMANY and the German armed forces as a whole.

5. In the event of the German High Command or any of the forces under their control failing to act in accordance with this Act of Surrender, the Supreme Commander, Allied Expeditionary Force and

¹ The Axis Defeat, Department of State publication 2423, pp. 21-25; also, Department of State publication 2515, Executive Agreement Series 502. See texts of (a) instrument of surrender of all German armed forces in Holland, in northwest Germany including all islands, and in Denmark, and (b) instrument of surrender of all German armed forces in

(Source: Halborn 1947)

three Governments are agreed that the following measures are important and should be put into effect:

1. It is essential that the Italian Government should be made more democratic by the introduction of representatives of those sections of the Italian people who have always opposed Fascism.
2. Freedom of speech, of religious worship, of political belief of the press and of public meeting shall be restored in full measure to the Italian people, who shall also be entitled to form anti-Fascist political groups.
3. All institutions and organizations created by the Fascist regime shall be suppressed.
4. All Fascist or pro-Fascist elements shall be removed from the administration and from the institutions and organizations of a public character.
5. All political prisoners of the Fascist regime shall be released and accorded a full amnesty.
6. Democratic organs of local government shall be created.
7. Fascist chiefs and other persons known or suspected to be war criminals shall be arrested and handed over to justice.

In making this declaration the three Foreign Secretaries recognize that as long as active military operations continue in Italy the time at which it is possible to give full effect to the principles set out above will be determined by the Commander-in-Chief on the basis of instructions received through the Combined Chiefs of Staff. The three Governments parties to this declaration will at the request of any one of them consult on this matter.

It is further understood that nothing in this resolution is to operate against the right of the Italian people ultimately to choose their own form of government.

C. DECLARATION ON AUSTRIA

The Governments of the United Kingdom, the Soviet Union and the United States of America are agreed that Austria, the first free country to fall a victim to Hitlerite aggression, shall be liberated from German domination.

They regard the annexation imposed upon Austria by Germany on March 15, 1938, as null and void. They consider themselves as in no way bound by any changes effected in Austria since that date. They declare that they wish to see reestablished a free and independent Austria, and thereby to open the way for the Austrian people themselves, as well as those neighboring states which will be faced with similar problems, to find that political and economic security which is the only basis for lasting peace.

Austria is reminded, however, that she has a responsibility which she cannot evade for participation in the war on the side of Hitlerite Germany, and that in the final settlement account will inevitably be taken of her own contribution to her liberation.

D. DECLARATION ON GERMAN ATROCITIES

The United Kingdom, the United States and the Soviet Union have received from many quarters evidence of atrocities, massacres and cold-blooded mass executions which are being perpetrated by the Hitlerite forces in the many countries they have overrun and from which they are now being steadily expelled. The brutalities of Hitlerite domination are no new thing and all the peoples or territories in their grip have suffered from the worst form of government by terror. What is new is that many of these territories are now being redeemed

Combined Directive for Military Government in Germany Prior to Defeat or Surrender. APPENDIX Apr. 28, 1944 135

by the advancing armies of the liberating Powers and that in their desperation, the recoiling Hitlerite Huns are redoubling their ruthless cruelties. This is now evidenced with particular clearness by monstrous crimes of the Hitlerites on the territory of the Soviet Union which is being liberated from the Hitlerites, and on French and Italian territory.

Accordingly, the aforesaid three Allied Powers, speaking in the interests of the thirty-two [thirty-three] United Nations, hereby solemnly declare and give full warning of their declaration as follows:

At the time of the granting of any armistice to any government which may be set up in Germany, those German officers and men and members of the Nazi party who have been responsible for, or have taken a consenting part in the above atrocities, massacres and executions, will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free governments which will be created therein. Lists will be compiled in all possible detail from all these countries having regard especially to the invaded parts of the Soviet Union, to Poland and Czechoslovakia, to Yugoslavia and Greece, including Crete and other islands, to Norway, Denmark, the Netherlands, Belgium, Luxemburg, France and Italy.

Thus, the Germans who take part in wholesale shootings of Italian officers or in the execution of French, Dutch, Belgium or Norwegian or of Cretan peasants, or who have shared in the slaughters inflicted on the people of Poland or in territories of the Soviet Union which are now being swept clear of the enemy, will know that they will be brought back to the scene of their crimes and judged on the spot by the peoples whom they have outraged. Let those who have hitherto not imbrued their hands with innocent blood beware lest they join the ranks of the guilty, for most assuredly the three Allied Powers will pursue them to the uttermost ends of the earth and will deliver them to their accusers in order that justice may be done.

The above declaration is without prejudice to the case of the major criminals, whose offences have no particular geographical localisation and who will be punished by the joint decision of the Governments of the Allies.

V

COMBINED DIRECTIVE FOR MILITARY GOVERNMENT IN GERMANY PRIOR TO DEFEAT OR SURRENDER

April 28, 1944¹

1. This directive is subject to such alteration as may be necessary to meet joint recommendations of the European Advisory Commission in regard to the post-surrender period. It relates to the period before defeat or surrender of

¹The directive was approved by the Combined Chiefs of Staff and transmitted by them to the Supreme Commander, Allied Expeditionary Force, on April 28, 1944. But it consisted then only of the basic and political directive and included only the political guides for Germany and Austria. As the text (par. 7, p. 136) indicated Appendices C, D, E were not yet ready. They were transmitted on May 31, 1944. However, the economic and relief guides were merged into Appendix D. The financial guide (Appendix C) was revised in August and a program adopted that envisaged to impose only a minimum of new financial controls and regulations. It was felt largely on the basis of the Italian experiences that a comprehensive anti-inflationary and control program could be formulated only after a practical observation of the financial and economic factors appearing in Germany during the post-hostilities period. Appendix C is published here in its revised form.

Germany and to such parts of Germany and Austria as are overrun by the forces under your command during such period. The same policy will be applied to occupied parts of Austria as to occupied parts of Germany except where different treatment is required for Austria to meet the provision of the Political Guide at Appendix B or other paragraphs dealing specifically with Austria.

2. Military government will be established and will extend over all parts of Germany, including Austria, progressively as the forces under your command capture German territory. Your rights in Germany prior to unconditional surrender or German defeat will be those of an occupying power.

3. a. By virtue of your position you are clothed with supreme legislative, executive, and judicial authority and power in the areas occupied by forces under your command. This authority will be broadly construed and includes authority to take all measures deemed by you necessary, desirable or appropriate in relation to the exigencies of military operations and the objectives of a firm military government.

b. You are authorized at your discretion, to delegate the authority herein granted to you in whole or in part to members of your command, and further to authorize them at their discretion to make appropriate subdelegations. You are further authorized to appoint members of your command as Military Governors of such territory or areas as you may determine.

c. You are authorized to establish such military courts for the control of the population of the occupied areas as may seem to you desirable, and to establish appropriate regulations regarding their jurisdiction and powers.

d. The military government shall be a military administration which will show every characteristic of an Allied undertaking, acting in the interests of the United Nations. Whether or not U. S. and U. K. civil affairs personnel will be integrated other than at your headquarters will be a matter for your decision.

4. The U. S. and British flags shall be displayed at headquarters and posts of the military government. The administration shall be identical throughout those parts of Germany occupied by forces under your command, subject to any special requirements due to local circumstances.

5. The military administration shall contain no political agencies or political representatives of the U. S. and U. K. U. S. and U. K. political officers appointed at your headquarters will continue in office.

6. Representatives of civilian agencies of the U.S.-U.K. Governments or of UNRRA shall not participate unless and until you consider such participation desirable when it will be subject, as to time and extent, to decision by the Combined Chiefs of Staff on your recommendation.

7. Appendix A, Political Guide for Germany; Appendix B, Political Guide for Austria, are attached hereto. Appendix C, Financial Guide; Appendix D, Economic Guide; and Appendix E, Relief Guide; will be transmitted at a later date.

Appendix A

POLITICAL GUIDE

1. The administration shall be firm. It will at the same time be just and humane with respect to the civilian population so far as consistent with strict military requirements. You will strongly discourage fraternization between Allied troops and the German officials and population. It should be made clear to the local population that military occupation is intended; (1) to aid military

operations; (2) to destroy Nazism-Fascism and the Nazi Hierarchy; (3) to maintain and preserve law and order; and (4) to restore normal conditions among the civilian population as soon as possible, insofar as such conditions will not interfere with military operations.

2. a. Adolf Hitler, his chief Nazi associates, and all persons suspected of having committed war crimes will be arrested and held for investigation and subsequent disposition, including those who appear on lists drawn up by the United Nations which will be communicated to you. The heads of all ministries and other high political functionaries of the German Reich and those Germans who have held high positions in occupied Allied countries found within occupied territory will be interned and held pending further instructions.

b. The same shall apply in the case of any national of any of the United Nations who is alleged to have committed offenses against his national law and of any other person whose name or designation appears on lists to be similarly communicated.

3. The intention is to dissolve the Nazi Party throughout Germany as soon as possible. In furtherance of this object, you should: (1) take possession of offices and records of all Party organizations and make lists of them; (2) suspend activities of all Party organizations except those which you may require to continue to function for administrative convenience; (3) arrest and imprison high Party officials; (4) take Party property into custody, except for those organizations specially directed by you in (2) above. A special effort should be made to seize and preserve all records and plans of the German military organizations and of the Nazi Party, and of the Security, Criminal, and Ordinary Police, and records of Nazi economic organizations and industrial establishments.

4. You will take steps to prevent the operation of all Nazi laws which discriminate on the basis of race, color, or creed or political opinions. All persons who were detained or placed in custody by the Nazis on such grounds should be released subject to requirements of security and interests of the individual concerned.

5. a. The operation of the criminal and civil courts of the German Reich will be suspended. However, at the earliest possible moment you should permit their functioning under such regulation, supervision, and control as you may determine. The operation of politically objectionable courts, e.g., People's courts, will be permanently suspended with a view to eventual abolition. All Nazi elements will be eliminated from the judiciary.

b. Security Police, excluding Criminal Police, but including Gestapo and Sicherheitsdienst, should be disarmed, disbanded and imprisoned. Criminal and Ordinary Police should be retained subject to the removal of Nazi or otherwise undesirable elements.

6. The replacement of local Government officials who may be removed will rest with the Supreme Commander who will decide whether the functioning of the military government is better served by the appointment of officers of the occupation forces or by the use of the services of Germans. Military Government will be effected as a general principle through indirect rule. The principal link for this indirect rule should be at the Bezirk or Kreis level; controls at higher levels will be inserted at your discretion. Subject to any necessary dismissals, local officials should be instructed to continue to carry out their duties. No actual appointment of Germans to important posts will be made until it has been approved by the Combined Chiefs of Staff. It should be made clear

any German, after eventual appointment to an important post, and to all other Governmental officials and employees, that their continued employment is solely on the basis of satisfactory performance and behavior. In general the entire Nazi leadership will be removed from any post of authority and no permanent member of the German General Staff nor of the Nazi Hierarchy will occupy any important Governmental or Civil position. The German Supreme Command and General Staff will be disbanded in such a way as will insure that its possible resuscitation later will be made as difficult as possible.

7. Subject to the provisions of paragraph 10, and to the extent that military interests are not prejudiced, freedom of speech and press, and of religious worship should be permitted. Consistent with military necessity, all religious institutions shall be respected and all efforts will be made to preserve historical archives, classical monuments, and objects of art.

8. Diplomatic and consular officials of countries at war with any of the United Nations and of neutrals will be dealt with in accordance with instructions to be issued by the Combined Chiefs of Staff.

9. a. Prisoners of war belonging to the forces of the United Nations and associated nations and their nationals confined, interned or otherwise under restraint by German authorities will be freed from confinement and placed under military control or restriction as may be appropriate pending other disposition.

b. So far as practicable after identification and examination, Allied nationals should be given opportunity to join the armed forces of their country if represented by units in the theater, or to serve in labor battalions organized by the military or in other approved civilian work, provided their loyalties to the Allies have been determined and they qualify physically and otherwise. All practical measures should be taken to insure health and welfare of Allied nationals. They should not be allowed to disperse until plans are made for their employment or other disposition. Former prisoners of war released by the Axis may be found. They should be identified and requests addressed to their respective military commands for instructions as to their disposition.

c. Allied and neutral civilian internees found in the territory should be placed in restricted residence with provision being made for their care until they show that they can provide for themselves. Work should be provided when practicable. They should be identified as to nationality in order that their presence in the territory may be communicated to their respective governments.

d. If feasible and practicable, enemy nationals, other than nationals of the country under occupation, will be identified and registered and those whose freedom of movement would endanger the security of the armed forces or be otherwise undesirable will be interned or their activities curtailed as may be necessary under the circumstances.

10. a. The propagation of Nazi doctrines and propaganda in any form shall be prohibited. Guidance on German education and schools will be given to you in a separate directive.

b. No political activity of any kind shall be countenanced unless authorized by you. Unless you deem otherwise, it is desirable that neither political personalities nor organized political groups, shall have any part in determining the policies of the military administration. It is essential to avoid any commitments to, or negotiations with, any political elements. German political leaders in exile shall have no part in the administration.

c. You will institute such censorship and control of press, printing, pub-

lications, and the dissemination of news or information by the above means and by mail, radio, telephone, and cable or other means as you consider necessary in the interests of military security and intelligence of all kinds and to carry out the principles laid down in this directive.

11. A plan should be prepared by you to prevent transfers of title of real and personal property intended to defeat, evade, or avoid the orders, proclamations, or decrees of the military government or the decision of the courts established by it.

12. a. All property in the German territory belonging to the German Reich or to any country with which any of the United Nations are at war will be controlled directly or indirectly pending further instructions, subject to such use thereof as you may direct.

b. Your responsibility for the property of the United Nations other than U. K. and U. S. and their nationals in areas to be liberated or occupied by Allied Forces shall be the same as for the property of U. K. and U. S. and their nationals except where a distinction is expressly provided by treaty or agreement. Within such limits as are imposed by the military situation you should take all reasonable steps necessary to preserve and protect such property.

Appendix B

POLITICAL GUIDE FOR AUSTRIA

1. The political aims of the occupation of Austria will differ fundamentally from those of the occupation of Germany in that their primary purpose will be that of liberation. Though it will be of great importance that the occupying forces in Germany should make a good impression on the inhabitants, this will be of even more importance in Austria and the impression to be aimed at is of a different kind. You should try to insure that occupation by Allied Forces in no way suffers by comparison with occupation by Germans.

2. In applying the political guide at Appendix A to Austria you should bear in mind the following points:

a. Paragraph 1. The attitude to the Austrian population should be more friendly than in Germany. There will be no need to discourage some degree of fraternization. In addition to the four points enumerated in the last sentence in this paragraph the following should be added: "To liberate Austria from German domination and pave the way for a free and independent Austria."

b. Paragraph 6. A large proportion of the administrative posts in Austria have been filled by Reich Germans and the replacement of local government officials may therefore have to be more complete than in Germany. Their replacement should proceed as rapidly as practicable having regard to the requirements of military security and administrative possibilities. Every encouragement should be given to Austrians untainted by Nazi sympathies to fill the vacated posts. Only the highest appointments will require the prior approval of the Combined Chiefs of Staff.

c. In Austria there is no intermediate administrative unit between the Reichsgaue and the Kreise and the principal link for civil affairs must therefore be the former until it is possible to restore the old Austrian länder.

d. Paragraph 10 a. In addition to Nazi doctrines and propaganda, it will be necessary to prohibit propaganda for pan-Germanism and renewal of association with Germany.

e. Paragraph 10 b. You should be prepared to give more latitude to political activity in Austria than in Germany.

Appendix C

REVISED* FINANCIAL GUIDE FOR GERMANY

1. United States, British and other Allied forces will use Allied Military marks and Reichsmark currency or coins in their possession. Allied Military Marks and Reichsmark currency and coin now in circulation in Germany will be legal tender without distinction and will be interchangeable at a rate of — Allied Military mark for — Reichsmark. Records will be kept of the amounts of the German marks used by the forces of each nation. *Reichskreditkasenscheine* and other German Military currency will not be legal tender in Germany.

2. In the event, however, that for any reason adequate supplies of Allied Military marks and/or Reichsmarks are not available, the United States forces will use yellow seal dollars and regular United States coins and the British forces will use British Military Authority (BMA) notes and regular British coins. Records will be kept of the amounts of currencies used by the United States and British forces.

3. If it is found necessary to use US yellow seal dollars and BMA notes, the following provisions will apply to such use:

a. The rate of exchange between the U.S. yellow seal dollar and the BMA notes will be — dollars to one pound, and the two currencies will be interchangeable at that rate. The United States Treasury will make the necessary arrangements with the British Treasury.

b. You will issue a proclamation, if necessary, requiring all persons to accept U.S. yellow seal dollars and BMA notes at the decreed rates. Transactions at any other rates will be prohibited.

c. The issuance of yellow seal dollars and BMA notes will cease and Allied Military mark and/or Reichsmark currency will be used in their place as soon as available.

d. U.S. yellow seal dollars and BMA notes will be withdrawn from circulation as soon as such withdrawal can be satisfactorily accomplished.

e. Records will be kept of the amounts of such currencies used by the United States, British and other Allied forces.

4. The rate of exchange to be decreed on your entry into the area will be — marks to the dollar and — marks to the pound sterling. Transactions at any other rates will be prohibited. Holders of mark currency or deposits will not be entitled to purchase foreign exchange without special permission. They will obtain dollars or pounds, or any other foreign currency or foreign exchange credits, only in accordance with exchange regulations issued by you.

5. The Financial Division of the Civil Affairs Section for Germany will include in its functions the control of all funds to be used by the Allied Military forces within the area, except yellow seal dollars and BMA notes which will be under the control of U.S. and British forces respectively. It will maintain all the accounts and records necessary to indicate the supply, control, and movement of these currencies including yellow seal dollars and BMA notes, and other funds, as well as financial data required for the determination of

*See p. 135, footnote.

expenditures arising out of operations or activities involving participation of Allied Military forces.

a. Insofar as operations relate to the provisions of currencies for the pay and other cash requirements of military components of the Allied forces, the Financial Division will supply Allied military marks from currency on hand and will record the debit against the military force concerned.

b. Insofar as operations relate to the provision of currencies for civil administration, the Financial Division will supply Allied Military marks from currency on hand and will record the debit against the Allied Military Government.

c. If found practicable and desirable, you will designate, under direct military control and supervision, the Reichsbank, or any branch thereof, or any other bank satisfactory to you, as agent for the Financial Division of Civil Affairs Sections. When satisfied that the Reichsbank, or any branch thereof, or other designated bank, is under adequate military control and supervision, you may use that bank for official business, and, if necessary, by making credits available, place such bank or banks in a position to finance other banks and branches thereof, for the conduct of their business as approved by the Allied military authorities.

d. The records of the Financial Division of the Civil Affairs Section established within the area will indicate in all cases in what currency receipts were obtained or disbursements made by the Financial Division.

6. Upon entering the area, you will take the following steps and will put into effect only such further financial measures as you may deem to be necessary from a strictly military standpoint:

a. You will declare a general or limited moratorium if you deem such measure to be necessary. In particular, it may prove desirable to prevent foreclosures of mortgages and the exercise of similar remedies by creditors against individuals and small business enterprises.

b. Banks should be placed under such control as deemed necessary by you in order that adequate facilities for military needs may be provided and to insure that instructions and regulations issued by military authorities will be fully complied with. Banks should be closed only long enough to introduce satisfactory control, to remove objectionable personnel, and to issue instructions for the determination of accounts to be blocked under paragraph e below. As soon as practicable banks should be required to file reports listing assets, liabilities, and all accounts in excess of 25,000 marks.

c. You will issue regulations prescribing the purposes for which credit may be extended and the terms and conditions governing the extension of credit. If banking facilities are not available you may establish such credits or make such loans as you deem necessary for essential economic activities. These will be restricted to mark credits and loans.

d. You will close all stock exchanges and similar financial institutions.

e. Pending determination of future disposition, all gold, foreign currencies, foreign securities, accounts in financial institutions, credits, valuable papers and all similar assets held by or on behalf of the following, will be impounded or blocked and will be used or otherwise dealt with only as permitted under licenses or other instructions which you may issue:

(1) German national, state, provincial, and local governments, and agencies and instrumentalities thereof.

(2) Other enemy governments, the agencies and instrumentalities thereof and their Nationals.

(3) Owners and holders, including neutral and United Nations Governments or national authorities, absent from the areas of Germany under your control.

(4) Nazi party organizations, including the party formations, affiliates, and supervised associations, and the officials, leading members, and supporters thereof.

(5) Persons under detention or other types of custody by Allied Military authorities and other persons whose activities are hostile to the interests of the military government.

f. No governmental or private bank or agency will be authorized to issue banknotes or currency except that, if found practicable and desirable, you may so authorize the Reichsbank and the Rentenbank when they are under adequate military control and supervision.

g. You will issue immediately a proclamation prohibiting all transfers of or other dealings in real estate and securities, other than central government securities. You may, however, prohibit or limit dealings in central government securities, but only pending resumption of service on the public debt.

7. All dealings in gold and foreign exchange and all foreign financial and foreign trade transactions of any kind, including all exports and imports of currency, will be prohibited except as permitted under such regulations as you may issue relative thereto. Except as you may otherwise authorize, local banks will be permitted to open and operate only mark accounts, but if yellow seal dollars and BMA notes are legal tender, they may be accepted at the decreed rate of exchange and will be turned in as directed by you in exchange for mark currency at the decreed rate of exchange.

8. Non-yellow seal U.S. dollar notes and regular British pound notes will not be legal tender. No person, agency or bank engaged in the exchange of money will acquire or otherwise deal in these notes except as you may so authorize. U. S. Army and Navy Finance Officers and British Paymasters may, however, be authorized to accept non-yellow seal U.S. dollar notes and regular British pound notes from United States and British Military or authorized personnel for conversion into Allied Military mark or Reichsmark currency at the decreed rate of exchange, after satisfying themselves as to the source of the notes.

9. All bona fide government pensions, allowances, and social security payments will continue to be paid, but steps will be taken as soon as practicable for a study of pensioners' records with a view to nullifying all unnecessary and undesirable pensions and bonuses of Nazi inception.

10. The railways, postal, telegraph and telephone service, radio and all government monopolies will be placed under your control and their revenues made available to the military government.

11. You will, consistent with international custom and usage, maintain existing tax laws, except that discriminatory taxes introduced under the Nazi regime will be abolished. Prompt action should be taken to maintain the inflow of revenue at the highest possible level. You will resume service on the public debt as soon as military and financial conditions permit.

Appendix D

ECONOMIC AND RELIEF GUIDE FOR GERMANY

The following directive relates to the period before the surrender of Germany. In areas where there are no military operations in progress, when practicable and consistent with military necessity you should:

(a) see that the systems of production, control, collection and distribution of food and agricultural produce are maintained, that food processing factories continue in operation and that the necessary labor and transport are provided to insure maximum production. German food and other supplies will be utilized for the German population to the minimum extent required to prevent disease and unrest. You will report on any surpluses that may be available as regards which separate instructions will be issued to you;

(b) instruct the German authorities to restore the various utilities to full working order, and to maintain coal mines in working condition and in full operation so far as transport will permit. Except insofar as their production is needed to meet your requirements, or as you may be instructed in subsequent directives, munitions factories will be closed pending further instructions. You will be responsible for procuring such goods and materials for export as you may from time to time be directed to obtain for the use of the United Nations. You will take steps to insure that no sabotage or destruction is carried out by the Germans of any industrial plant, equipment or stocks, or of any books or records relating thereto. Pending the issue of further directives you will take such steps as you think desirable to preserve intact all such plant, equipment, books and records, paying particular attention to research and experimental establishments;

(c) exercise control over German shipping, inland transport and communications primarily in the interests of the Allied military effort and see that they are maintained in a full state of efficiency;

(d) establish a system of control over export and import trade. In determining what exports shall be permitted, paramount consideration shall be granted to your military needs. Records will be kept of all import and export transactions;

(e) instruct the German authorities to maintain the limits on prices and wages in force under the most recent German regulations. The rationing system for important staple commodities shall be retained or reestablished. Black market activities and hoarding will be severely punished. Generally you will take all possible steps to prevent inflation;

(f) where possible, work through the existing German administrative and economic machinery in carrying out the above program, bearing in mind the principles as regards removal of Nazi personnel contained in paragraph 6 of the political guide at Appendix A;

(g) permit the formation of a democratic trade union movement and other forms of free economic association.

M 105.17: P.94 Excerpts from Handbook for Military Gov't re: operating procedure and

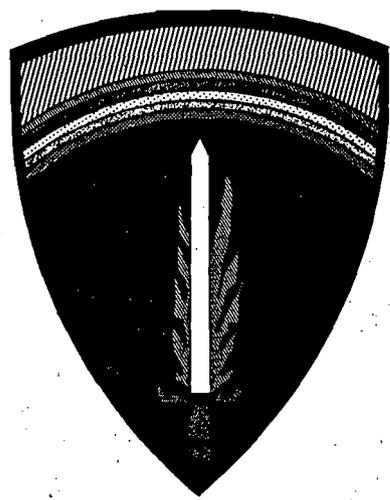
Civil Affairs Division, Army Dept.
Mechanics of Property Control

Dec 20, 1948

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

PROPERTY CONTROL
HISTORY, POLICIES, PRACTICES AND PROCEDURES
OF THE
UNITED STATES AREA OF CONTROL, GERMANY

1050/6821



SPECIAL REPORT OF THE
MILITARY GOVERNOR

NOVEMBER 1948

SUMMARY

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The two fundamental problems of the Property Control Program have been: first, the methods of locating, placing under custody, safeguarding and administering various specified categories of property under control; and, second, making decisions providing for ultimate disposition of properties and expediting the release thereof. In accordance with Military Government policies, directives, laws and other measures, every effort is being made to release as many properties from control as possible.

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In line with Military Government policy of transferring greater responsibility to German governmental authorities, Property Control responsibility for custody and administration, as provided for in Military Government Regulation Title 17, was transferred to German Land governments during the latter half of 1946. Special safeguards were provided for properties of United Nations and neutral owners and those properties in the "duress" categories. The German agencies were under the direct supervision of Military Government authorities.

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In June 1947 the emphasis changed from the first phase (that of locating and adequately protecting properties) to implementing and carrying out the second phase (release of properties from control). In June 1947 a program was announced providing for the decontrol of properties belonging to citizens of United Nations and neutral nations (except Spain and Portugal). This program was later extended to former enemy nations with whom peace treaties have been signed.

Control Council Directive No. 50 and Military Government Law No. 58 have established the procedures whereby property of Nazi organizations are being transferred to Land governments or to certain democratic organizations. The properties of individual Nazis are being released from control in accordance with existing denazification procedures. Properties of the Reich are being held pending necessary policy decisions as to disposition. "Duress" properties will be held pending final adjudication of the case as provided for in Military Government Law No. 59. Properties taken under control as "duress" properties for which no claim has been filed will be released from control pursuant to Military Government directives to be issued in the future. It is expected that practically all properties with the exception of "duress" and "Reich" properties will be released from control during the first six months of 1949.

On 1 July 1949, it is planned to liquidate completely Military Government Property Control Offices. Residual Property Control duties will in large part be transferred to a Central German Property Control Coordinating Committee composed of the four Land Civilian Agency Heads. Those Property Control functions which cannot be transferred to the Central German Property Control Coordinating Committee will be made the responsibility of one of the Military Governor's Advisers.

Dec. 20, 1944

Excerpts from Handbook for Military Govt pertaining to the

INTRODUCTION

operating procedure + mechanics of Prop. Control

In 1942, there was established in England an organization known as the United States Group Control Council. It was composed of various Divisions corresponding to the Divisions of Military Government and the purpose was to plan the functions of the occupation of Germany. Within the USGCC was a Division called "Reparations, Deliveries and Restitutions (RD&R)", which included the functions which Property Control assumes today. After the capitulation of Germany, RD&R Division was split into the Restitution Branch, the Reparation Branch, and Property Control, which was first formed as a special Branch of the Economics Division, but which was later taken over by the Finance Division. In March 1948, the Finance Division was dissolved, and the Property Control Branch became a Branch of a new Division known as the Property Division.

Property Control measures were aimed at the denazification and demilitarization of Germany. Property Control custody was used to remove designated persons and organizations from positions of importance and power and render them harmless to the anticipated program of democratization. Custody was necessary to protect certain properties pending ultimate disposition.

Property Control in the U.S. Zone of Germany became effective with the posting of Military Government Law No. 52 1/ as the armies moved through Germany, starting in Aachen on 18 September 1944. Property Control was, at that time, fully administered by the Military. As stated in the USFET Directive of 7 July 1945 2/ which later served as basis for Military Government Regulation Title 17 (MGR 17), 3/ all properties subject to control were blocked and frozen on the above date as a necessary step toward the enforcement of the policy of denazification, the principles of demilitarization and deindustrialization, and the program of relief, restitution and reparations.



The operating procedure and mechanics of Property Control were well stated in the Handbook for Military Government (Rev. 1, 20 Dec. 1944). Pertinent sections are:

(384.) In exercising Property Control functions, the role of the Military Government Officer is that of a Military Government official, not that of a receiver or trustee in the British or American sense. He should do what is reasonable in the circumstances. No personal liability will attach to any Military Government Officer for acts which are performed, permitted or omitted, in good faith, relative to the control or administration of property.

(385.) Military Government Officers are not authorized to submit to the jurisdiction of the local courts in proceedings in which Military Government or Military Government Officers are, in effect, defendants. Further instructions will be issued in regard to this matter.

(386.) Military Government Officers will arrange for the receipt of reports and returns required from local officials, organizations and persons relating to property under control.

(387.) Military Government Officers will at all times gather and forward to the Deputy Chief Property Control Officer all local information relevant to the classes of property subject to Property Control. Of particular interest will be reports of cloaking activities used to disguise property acquired through duress or wrongful acts of dispossession or spoliation, or to conceal holdings of the Nazi Party and prominent members and supporters thereof.

1/ See Annex VIII.
2/ See Annex III.
3/ See Annex VI.

(388.) In the event it is necessary to use force to take possession of any property or to exclude any person from it, and sufficient assistance from Military Government Public Safety Officers cannot be obtained, a request should be made for the necessary aid to the appropriate Military Commander.

(389.) In the administration and operation of property taken under control, Military Government Officers should not, except after consultation with the appropriate Property Control Officer, lease or repair such property, nor employ agents and fix and pay compensation for any of the foregoing.

(390.) Military Government does not ordinarily take title to property taken into control. Sales may be made on behalf of the owner only if specially ordered or in cases of perishables.

(391.) Military Government Officers will not enter into a contract for a term in excess of 30 days, without approval from the Chief Property Control Officer.

(392.) Property should be entered on the Property Record (MG/PC/2) as soon as taken into control. The Record of Property Transactions (MG/PC/3) will be maintained by Military Government Officers or Military Government Detachments and will recite all facts and transactions that affect the property, its condition and history. Until property is entered on the Property Record by the Military Government Officer and the Notice of Custody (MG/PC/1) is filed, it is not completely taken into control. It may therefore be released to its owner or his representatives without formality even though protective notices have been posted on it or have been delivered to its occupants. (See F & PC Technical Manual.)

(393.) When a going concern is taken over, Military Government Officers should consult with any Military Government functional specialist officers interested in the functioning of such concern. When a going concern is taken over, Military Government Officers will give to the person or persons in charge Property Control Letter of Instruction No. 1 (MG/PCO/IBE/1). (See F & PC Technical Manual.)

(394.) Operating agents and custodians shall be instructed to keep proper and appropriate accounts so that reports and accounts may be rendered to owners or to higher authorities. Where Military Government takes control of any business or undertaking which already has a satisfactory accounting system in operation, the existing accounting system will be continued. If the Military Government Officer finds an inadequate accounting system in an undertaking under control, a report thereof will be made to the appropriate Property Control Officer.

(395.) Funds received or produced by the operation of the property may be retained in such accounts or depositories as are maintained on its behalf, subject to directions of the appropriate Property Control Officer. Large accumulations of funds by such undertakings will be reported to the appropriate Property Control Officer.

(396.) Custodians appointed to operate any property shall have no power, without the consent of higher authority, to alter the nature of a business, or to sell, liquidate, incur or obligate the property or any part of it beyond the ordinary course of business.

(397.) Fees paid to custodians, and allowances made to owners or their dependents, out of such properties may be continued, but may not be reduced or increased without prior approval from the Chief Property Control Officer. When paid they shall stand as a charge against the property and its owner.

(398.) Under no circumstances will persons who have been removed from any office or position because of the Supreme Commander's policy of removal of active Nazis and ardent Nazi sympathizers be employed or used in any other way in connection with the Property Control program of Military Government.

The report which follows is a brief history of the Property Control Program of the U.S. Military Government as administered in the U.S. Area of Control, Germany.

PROPERTY CONTROL

It indicates the policies, procedures and practices followed, and the special steps taken to protect the properties under control and return them to their rightful owners, or ultimate recipients. In the annexes are cited the basic authorities and pertinent legislation which formed the basis of the Property Control Program.

PROPERTY CONTROL PROGRAM

VII
 REPORT OF CRIMEA CONFERENCE

 February 11, 1945¹

For the past eight days, Winston S. Churchill, Prime Minister of Great Britain, Franklin D. Roosevelt, President of the United States of America, and Marshal J. V. Stalin, Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics, have met with the Foreign Secretaries, Chiefs of Staff, and other advisors in the Crimea.

[A list of participants in addition to the three heads of governments follows here in the original.]

The following statement is made by the Prime Minister of Great Britain, the President of the United States of America, and the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics on the results of the Crimean Conference:

The Defeat of Germany

We have considered and determined the military plans of the three Allied powers for the final defeat of the common enemy. The military staffs of the three Allied nations have met in daily meetings throughout the Conference. These meetings have been most satisfactory from every point of view and have resulted in closer coordination of the military effort of the three Allies than ever before. The fullest information has been interchanged. The timing, scope and coordination of new and even more powerful blows to be launched by our armies and air forces into the heart of Germany from the East, West, North and South have been fully agreed and planned in detail.

Our combined military plans will be made known only as we execute them, but we believe that the very close working partnership among the three staffs attained at this Conference will result in shortening the War. Meetings of the three staffs will be continued in the future whenever the need arises.

Nazi Germany is doomed. The German people will only make the cost of their defeat heavier to themselves by attempting to continue a hopeless resistance.

The Occupation and Control of Germany

We have agreed on common policies and plans for enforcing the unconditional surrender terms which we shall impose together on Nazi Germany after German armed resistance has been finally crushed. These terms will not be made known until the final defeat of Germany has been accomplished. Under the agreed plan, the forces of the three powers will each occupy a separate zone of Germany. Coordinated administration and control has been provided for under the plan through a central control commission consisting of the Supreme Commanders of the three powers with headquarters in Berlin. It has been agreed that France should be invited by the three powers, if she should so desire, to take over a zone of occupation, and to participate as a fourth member of the control commission. The limits of the French zone will be agreed by the four governments concerned through their representatives on the European Advisory Commission.

It is our inflexible purpose to destroy German militarism and Nazism and to ensure that Germany will never again be able to disturb the peace of the world. We are determined to disarm and disband all German armed forces; break up

¹Department of State, *Bulletin*, XII (1945), pp. 213-216.

for all time the German General Staff that has repeatedly contrived the resurgence of German militarism; remove or destroy all German military equipment; eliminate or control all German industry that could be used for military production; bring all war criminals to just and swift punishment and exact reparation in kind for the destruction wrought by the Germans; wipe out the Nazi Party, Nazi laws, organizations and institutions, remove all Nazi and militarist influences from public office and from the cultural and economic life of the German people; and take in harmony such other measures in Germany as may be necessary to the future peace and safety of the world. It is not our purpose to destroy the people of Germany, but only when Nazism and militarism have been extirpated will there be hope for a decent life for Germans, and a place for them in the comity of nations.

Reparation by Germany

We have considered the question of the damage caused by Germany to the Allied nations in this war and recognized it as just that Germany be obliged to make compensation for this damage in kind to the greatest extent possible. A commission for the compensation of damage will be established. The commission will be instructed to consider the question of the extent and methods for compensating damage caused by Germany to the Allied countries. The commission will work in Moscow. . . .²

Declaration on Liberated Europe

The Premier of the Union of Soviet Socialist Republics, the Prime Minister of the United Kingdom, and the President of the United States of America have consulted with each other in the common interests of the peoples of their countries and those of liberated Europe. They jointly declare their mutual agreement to concert during the temporary period of instability in liberated Europe the policies of their three governments in assisting the peoples liberated from the domination of Nazi Germany and the peoples of the former Axis satellite states of Europe to solve by democratic means their pressing political and economic problems.

The establishment of order in Europe and the rebuilding of national economic life must be achieved by processes which will enable the liberated peoples to destroy the last vestiges of Nazism and Fascism and to create democratic institutions of their own choice. This is a principle of the Atlantic Charter—the right of all peoples to choose the form of government under which they will live—the restoration of sovereign rights and self-government to those peoples who have been forcibly deprived of them by the aggressor nations.

To foster the conditions in which the liberated peoples may exercise these rights, the three governments will jointly assist the people in any European liberated state or former Axis satellite state in Europe where in their judgment conditions require (A) to establish conditions of internal peace; (B) to carry out emergency measures for the relief of distressed peoples; (C) to form interim governmental authorities broadly representative of all democratic elements in the population and pledged to the earliest possible establishment through free elections of governments responsive to the will of the people; and (D) to facilitate where necessary the holding of such elections.

The three governments will consult the other United Nations and pro-

²Here follows in the original a section dealing with the Dumbarton Oaks Conference and the calling of the United Nations Conference at San Francisco.

visional authorities or other governments in Europe when matters of direct interest to them are under consideration.

When, in the opinion of the three governments, conditions in any European liberated state or any former Axis satellite state in Europe make such action necessary, they will immediately consult together on the measures necessary to discharge the joint responsibilities set forth in this declaration.

By this declaration we reaffirm our faith in the principles of the Atlantic Charter, our pledge in the declaration by the United Nations, and our determination to build in cooperation with other peace-loving nations world order under law, dedicated to peace, security, freedom and general well-being of all mankind.

In issuing this declaration, the three powers express the hope that the Provisional Government of the French Republic may be associated with them in the procedure suggested.

Poland

A new situation has been created in Poland as a result of her complete liberation by the Red Army. This calls for the establishment of a Polish provisional government which can be more broadly based than was possible before the recent liberation of Western Poland. The provisional government which is now functioning in Poland should therefore be reorganized on a broader democratic basis with the inclusion of democratic leaders from Poland itself and from Poles abroad. This new government should then be called the Polish Provisional Government of National Unity.

Mr. Molotov, Mr. Harriman and Sir A. Clark Kerr are authorized as a commission to consult in the first instance in Moscow with members of the present provisional government and with other Polish democratic leaders from within Poland and from abroad, with a view to the reorganization of the present government along the above lines. This Polish Provisional Government of National Unity shall be pledged to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot. In these elections all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates.

When a Polish Provisional Government of National Unity has been properly formed in conformity with the above, the government of the USSR, which now maintains diplomatic relations with the present provisional government of Poland, and the government of the United Kingdom and the government of the U.S.A. will establish diplomatic relations with the new Polish Provisional Government of National Unity, and will exchange ambassadors by whose reports the respective governments will be kept informed about the situation in Poland.

The three heads of government consider that the Eastern frontier of Poland should follow the Curzon line with digressions from it in some regions of five to eight kilometers in favor of Poland. They recognize that Poland must receive substantial accessions of territory in the North and West. They feel that the opinion of the new Polish Provisional Government of National Unity should be sought in due course on the extent of these accessions and that the final delimitation of the western frontier of Poland should thereafter await the peace conference. . . .³

³The final sections of the Report dealt with Yugoslavia, the meeting of foreign ministers to be held in future, and the maintenance of unity among the Allies beyond the War.

VIII

DIRECTIVE TO COMMANDER-IN-CHIEF OF UNITED STATES FORCES OF OCCUPATION REGARDING MILITARY GOVERNMENT OF GERMANY

April 28, 1945¹

It is considered appropriate, at the time of the release to the American public of the following directive setting forth United States policy with reference to the military government of Germany, to preface the directive with a short statement of the circumstances surrounding the issuance of the directive to General Eisenhower.

The directive was issued originally in April, 1945, and was intended to serve two purposes. It was to guide General Eisenhower in the military government of that portion of Germany occupied by United States forces. At the same time he was directed to urge the Control Council to adopt these policies for enforcement throughout Germany.

Before this directive was discussed in the Control Council, President Truman, Prime Minister Attlee, and Generalissimo Stalin met at Potsdam and issued a communiqué setting forth agreed policies for the control of Germany. This communiqué was made public on 2 August 1945. The directive, therefore, should be read in the light of the policies enumerated at Potsdam. In particular, its provisions regarding disarmament, economic and financial matters, and reparations should be read together with the similar provisions set out in the Potsdam Agreement on the treatment of Germany in the initial control period and in the agreement on reparations contained in the Potsdam communiqué. Many of the policy statements contained in the directive have been in substance adopted by the Potsdam Agreement. Some policy statements in the Potsdam Agreement differ from the policy statements on the same subjects in the directive. In such cases, the policies of the Potsdam Agreement are controlling. Where the Potsdam Agreement is silent on matters of policy dealt with in the directive, the latter continues to guide General Eisenhower in his administration of the United States zone in Germany.

DIRECTIVE TO COMMANDER-IN-CHIEF OF UNITED STATES FORCES OF OCCUPATION REGARDING THE MILITARY GOVERNMENT OF GERMANY

1. The Purpose and Scope of this Directive:

This directive is issued to you as Commanding General of the United States Forces of Occupation in Germany. As such you will serve as United States member of the Control Council and will also be responsible for the administration of military government in the zone or zones assigned to the United States for purposes of occupation and administration. It outlines the basic policies which will guide you in those two capacities after the termination of the combined command of the Supreme Commander, Allied Expeditionary Force.

This directive sets forth policies relating to Germany in the initial post-defeat period. As such it is not intended to be an ultimate statement of policies of this Government concerning the treatment of Germany in the postwar world.

¹The document, known as JCS-1067, was sent by the Joint Chiefs of Staff to General Eisenhower on April 28, 1945. The Department of State released it to the press on October 17 adding the introductory statement. Department of State, *Bulletin*, Vol. XIII (1945), pp. 596-607.

Source:
Pollock + Meisel 47

Crimea Conference
Communique
Decisions with Regard
Germany
Feb-3-11, 1945

I
YALTA

The claim of having produced the first concrete pronouncement of Allied intentions toward a defeated Germany belongs to the Tripartite Conference in Moscow, held in November 1943. But since the "Declaration of German Atrocities" issued by the assembled Foreign Secretaries and signed by the allied leaders, Roosevelt, Churchill and Stalin, deals with the specific topic of War Crimes, its proper place in this collection would seem to be the selection of documents concerned with the Nürnberg Trial (Section V).

It was at the Crimea Conference (February 3-11, 1945) that the "Big Three" established, four months before the collapse of the Hitler regime, the major lines of policy which were adopted at the Potsdam Conference later that year. The Yalta communique re-stated the demand for "Unconditional Surrender" of the Casablanca and Teheran conferences (cf. the next section, No. II). Beyond that, the Allies proclaimed their "inflexible purpose": to demilitarize and denazify Germany (amplified in III, IV, VI and VII), to bring all war criminals to justice (V and VII), to exact "reparation in kind" (cf. especially VIII), and to destroy Germany's industrial war potential while leaving her people the means for achieving an average standard of living (IX).

It was at Yalta too that the crucial decision was made to divide up Germany into three (later four) separate zones of occupation, to be coordinated by an Allied Control Commission in Berlin. (The Americans had advocated a unified (mixed) allied administration, but had not been able to overcome the objections of their British and Soviet Allies.) It is this particular Yalta compromise which has been blamed by most critics as the main source of friction between the occupying powers. Since unanimity was required, in a case of disagreement each partner felt free to act in his own zone independently. Thus the important principle established at Potsdam (provision B 14), to treat Germany as a single economic unit, was never put into operation.

CRIMEA CONFERENCE COMMUNIQUE

Decisions with Regard to Germany (February 3-11, 1945)

The following statement is made by the Prime Minister of Great Britain, the President of the United States, and the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics on the result of the Crimea Conference:

1. DEFEAT OF GERMANY

We have considered and determined the military plans of the three Allied Powers for the final defeat of the common enemy. The Military Staffs of the three allied Powers have met in daily meetings throughout the Conference. These meetings have been most satisfactory from every point of view and have resulted in closer coordination of the military effort of the three allies than ever before.

The fullest information has been interchanged. The timing, scope, and coordination of new and even more powerful blows to be launched by our armies and air forces into the heart of Germany from east, west, north, and south have been fully agreed and planned in detail.

Our combined military plans will be made known only as we execute them but

we believe that the very close working partnership among the three Staffs attained at this Conference will result in shortening the war. Meetings of the three Staffs will be continued in the future whenever the need arises.

Nazi Germany is doomed. The German people will only make the cost of the defeat heavier to themselves by attempting to continue a hopeless resistance.

2. OCCUPATION AND CONTROL

We have agreed on common policies and plans for enforcing the unconditional surrender terms which we shall impose together on Nazi Germany after German armed resistance has been finally crushed. These terms will not be made known until the final defeat of Germany is accomplished.

Under the agreed plans the forces of the three Powers will each occupy a separate zone of Germany. Coordinated administration and control has been provided for under the plan through a Central Control Commission consisting of the Supreme Commanders of the three Powers with headquarters in Berlin.

It has been agreed that France should be invited by the three Powers, if she should so desire, to take a zone of occupation, and to participate as fourth member of the Control Commission. The limits of the French zone will be agreed by the four Governments concerned through their representatives on the European Advisory Commission.

It is our inflexible purpose to destroy German militarism and Nazism and to ensure that Germany will never again be able to disturb the peace of the world. We are determined to disarm and disband all German armed forces; break up for a time the German General Staff that has repeatedly contrived the resurgence of German militarism; remove or destroy all German military equipment; eliminate and control all German industry that could be used for military production; bring to war criminals to justice and swift punishment and exact reparation in kind for destruction wrought by Germans; wipe out the Nazi Party, Nazi laws, organizations and institutions; remove all Nazi and militarist influences from public offices and from the cultural and economic life of the German people; and take in harm's way such other measures in Germany as may be necessary to the future peace and safety of the world.

It is not our purpose to destroy the people of Germany, but only when Nazi and militarism have been extirpated will there be hope for decent life for Germany and a place for them in the comity of nations.

3. REPARATION BY GERMANY

We have considered the question of the damage caused by Germany to Allied Nations in this war, and recognized it as just that Germany be obliged to make compensation for the damage in kind to the greatest extent possible. A Commission for the Compensation of Damage will be established. The Commission will be instructed to consider the question of extent and methods for compensating damage caused by Germany to the Allied countries. The Commission will work in Moscow.

(Signed) WINSTON S. CHURCHILL
FRANKLIN D. ROOSEVELT
J. V. STALIN.

warding the revised directive³⁷ you have simply lopped off the two standard introductory paragraphs and that the remainder of the directive is more detailed than the original draft³⁸ sent from here.

Again, in the revised 1067, Article 1 of the Political Directive lists fourteen categories of persons who must be searched out, arrested and held. The final paragraph of that same Article places on the commander-in-chief detailed responsibility for reporting *failure* to arrest any one of several million persons comprised in these categories and for reporting to the Control Council his recommendation and reasons therefor in each case. This places an exacting obligation on the commanding general without regard to practical obstacles and without leaving any degree of discretion to him—an obligation which is far more binding in its detail than any which we felt wise to write into our draft directives.

I wonder if you realize how closely my advisers have worked with the operational and planning Army officers who are actually going to do some of these jobs in Germany. Those officers look at the problem from a very practical viewpoint. We are also in daily contact with the representatives of the three occupying Powers and the positions taken by them under instructions from their Governments.

In a letter to General Meyer, dated December 16, 1944,³⁹ General Hilldring states:

"I am aware of Mr. Winant's agreement with Strang and if he would abandon the British long terms in favor of our short term instrument, we would agree to include the subject matter forming the basis of the long terms in proclamations and general orders to be issued to the Germans after the signing of the Surrender Instrument. To this we have no objection, although the Joint Chiefs have never been advised of the existence of such an agreement."

I am glad that General Hilldring admits the validity of this agreement, which we and the Russians made as a basis for securing British acceptance of our short military Instrument of Surrender. The instruction which directed me to enter into this agreement (dated February 12, 1944)⁴⁰ was approved in a signed memorandum by General Hilldring and was transmitted to me with the approval of the Joint Chiefs of Staff and the State Department. My acceptance of this commitment, upon express instructions of our Government, was reported by me in Comea 38 of March 10, 1944.⁴¹ The State and War

³⁷ *Ante*, p. 410.

³⁸ Not printed.

³⁹ Not found in Department files. Brig. Gen. Vincent Meyer was Chief Military Adviser to the United States Representative on the European Advisory Commission (Winant).

⁴⁰ Telegram 3735, February 12, 1944, to London, *Foreign Relations*, 1944, vol. I, p. 167.

Departments acknowledged and confirmed this commitment in Eacom 13 of March 16, 1944.⁴²

The remaining paragraphs of General Hilldring's letter, however, go on to argue that there is no necessity for meeting this clear commitment. The consequences of repudiating such a commitment would inevitably lead to undermining the basis of Allied cooperation and unity.

The action taken at the Crimea Conference, which confirmed the acceptance of the Unconditional Surrender Instrument, of the Protocol on Zones of Occupation in Germany and the Agreement on Control Machinery in Germany, has given us a firm basis for action which should make our work easier in the weeks ahead.

I have always tried to work *with* you. My problem has been to get on with a job in which the time factor is an important element. Therefore I have pressed to get clearance on those things which I thought were of vital concern in protecting our interests and in safeguarding Allied unity.

I look forward to seeing you. I am sure we will find ourselves in agreement on the basic approach to the question of how best to assure continued Allied cooperation in the handling of Germany.

Sincerely,

JOHN GILBERT WINANT

740.00119 Control (Germany)/2-2845

Memorandum by President Roosevelt to the Secretary of State

WASHINGTON, February 28, 1945.

I desire that you, as Secretary of State, assume the responsibility for seeing that the conclusions, exclusive of course of military matters, reached at the Crimea Conference, be carried forward. In so doing you will, I know, wish to confer with other officials of this Government on matters touching upon their respective fields. I will expect you to report to me direct on the progress you are making in carrying the Crimea decisions into effect in conjunction with our Allies.

F[RANKLIN] D. R[OOSEVELT]

740.00119 Control (Germany)/3-1045

*Memorandum by the Secretary of State to President Roosevelt*⁴³

[WASHINGTON, March 8, 1945.]

Your memorandum of February 28 directed me to assume the responsibility for carrying forward the conclusions you reached at the

⁴² *Foreign Relations*, 1944, vol. I, p. 199.

⁴³ File copy neither signed nor dated.

Draft Directive for Treatment of Germany
Mar. 10, 1945

Crimea Conference. In pursuance thereof, I am attaching for your approval a suggested directive on the treatment of Germany which I believe conforms to the Yalta discussions and decisions. I believe that such a directive is urgently necessary to implement the Yalta decisions and continue the formulation and development of United States policy to be concerted with our Allies. If you approve of the attached directive, I suggest the establishment of an informal policy committee on Germany under the chairmanship of the Department of State and including representatives of War, Navy, Treasury and the Foreign Economic Administration. This committee would serve as the central source of policy guidance for American officials both civilian and military on questions relating to the treatment of Germany and its proceedings would be based on the attached directive.

[Annex]

MARCH 10, 1945.

DRAFT DIRECTIVE FOR THE TREATMENT OF GERMANY

I. MILITARY GOVERNMENT

1. The inter-allied military government envisaged in the international agreement on control machinery for Germany shall take the place, and assume the functions, of a central government of Germany.
2. The authority of the Control Council shall be paramount throughout Germany. The zones of occupation shall be areas for the enforcement of the Council's decisions rather than regions in which the zone commanders possess a wide latitude of autonomous power.
3. German administrative machinery must be purged as set forth below. It shall be used in so far as it can serve the purposes of this directive and does not permit Nazi abuses.

II. IMMEDIATE SECURITY MEASURES

1. The German armed forces, including para-military organizations, shall be promptly demobilized and disbanded.
2. All military and para-military agencies, including the General Staff, partly military and quasi-military organizations, the Reserve Corps, and military academies, together with all associations serving to keep alive the military tradition in Germany shall be immediately dissolved and thereafter prohibited.

(Footnote continued from p. 433.)

Another copy of this memorandum bears the handwritten, unsigned notation: "March 12, 1945 approved. Handed in person to the Secy. 3/13/45 Staff Meeting." A covering chit by Mr. Hathaway Watson, Assistant to the Special Assistant to the Secretary of State (G. Hayden Raynor), dated March 14, attached to still another copy of the memorandum reads as follows: "Original was

3. All German arms, ammunition and implements of war shall be removed or destroyed.
4. Military archives and military research facilities shall be confiscated.
5. The manufacture and the importation of arms, ammunition and implements of war shall be prohibited.
6. The German aircraft industry shall be dismantled and the further manufacture of aircraft and component parts shall be henceforth prohibited.

III. IMMEDIATE POLITICAL MEASURES

1. The Nazi Party and its affiliated and supervised organizations shall be dissolved and their revival in any form shall be prohibited. Such non-political social services of these organizations as are deemed desirable may be transferred to other agencies.
2. Nazi laws which provided the legal basis of the Hitler regime and which established discriminations on grounds of race, creed, and political opinion shall be abolished.
3. All Nazi public institutions (such as the People's Courts and Labor Front) which were set up as instruments of Party domination shall be abolished.
4. Active Nazis and supporters of Nazism and other individuals hostile to Allied purposes, shall be eliminated from public and quasi-public office and from positions of importance in private enterprise. Active Nazis shall be defined as those approximately two million members of the Party who have been leaders at all levels, from local to national, in the Party and its subordinate organizations.
5. Nazi political malefactors and all war criminals shall be arrested and punished.
6. Germans taken abroad for labor reparation shall be drawn primarily from the ranks of the active Nazis and of Nazi organizations, notably from the SS and the Gestapo.
This procedure will serve the double purpose of eliminating many of the worst carriers of Nazi influence from Germany and of compelling the guilty to expiate their crimes and to repair some of the damage they have done.
7. Under the direction and supervision of the Control Council there shall be established throughout Germany a unified system of control over all means of disseminating public information.
8. There shall be established a uniform system of control over German education designed completely to eliminate Nazi doctrines and to make possible the development of democratic ideas.

IV. ECONOMIC CONTROL

1. Pending definite decision on revision of laws...

East Prussia and Upper Silesia, shall be administered and controlled as an economic unit.

2. The economy of Germany shall be directed, controlled and administered in such a way as to

(a) Provide facilities for, and contribute to the maintenance of the occupying forces and occupying authorities.

(b) Stop the production, acquisition and development of implements of war and their specialized parts and components.

(c) Provide a minimum standard of living for the German people including such food, shelter, clothing and medical supplies as are required to prevent disorder and disease on a scale that would make the task of occupation and the collection of reparation substantially more difficult.

(d) Provide such goods and services to Allied countries for relief, restitution and reparation as will be in excess of the requirements of the occupation forces and the minimum standard of living.

(e) Conform to such measures for the reduction and control of Germany's economic war potential as the Allied governments may prescribe. (See paragraphs 13 to 18, inclusive.)

3. It is recognized that a substantial degree of centralized financial and economic control is essential to the discharge of the tasks mentioned in paragraph 2. The Control Council shall have general responsibility for insuring that all measures necessary to this end are taken.

4. In particular, the Control Council shall be empowered to formulate, within the framework of existing and future directives, basic policies governing (a) public finance; money and credit, (b) prices and wages, (c) rationing, (d) inland transportation and maritime shipping, (e) communications, (f) internal commerce, (g) foreign commerce and international payments, (h) restitution and reparation, (i) treatment and movement of displaced persons, and (j) allocation of plant and equipment, materials, manpower and transportation.

5. It is recognized that the prevention of uncontrolled inflation is in the interest of the United Nations. The Control Council shall strive to insure that appropriate controls, both financial and direct, are maintained or revived.

6. The Control Council shall utilize centralized instrumentalities for the execution and implementation of its policies and directives to the maximum possible extent, subject to supervision and scrutiny of the occupying forces. Whenever central German agencies or administrative services which are needed for the adequate performance of such tasks have ceased to function they shall be revived or replaced as rapidly as possible.

7. (a) Before utilizing German agencies military government authorities must carry through denazification in accordance with the prin-

(b) German nationals deprived of their positions because of previous affiliations with or support of the Nazi party or because of disloyalty to the military government authorities shall be replaced as far as possible by other German nationals. In recruiting replacements military government officers shall rely as much as practicable on the leaders and personnel of freely organized labor unions and professional associations and of such anti-Nazi political groupings and parties as may arise in Germany.

8. Military government shall eliminate active Nazis and supporters of the Nazi regime and other individuals hostile to Allied purposes, from dominant positions in industry, trade and finance.

9. Military government shall permit free and spontaneous organization of labor and professional employees. It shall facilitate collective bargaining between employers and employees regarding wages and working conditions subject to overall wage controls and considerations of military necessity.

10. Germany shall be required to restore all identifiable property which has been taken from invaded countries. It shall also be compelled to replace objects of unique cultural and artistic value whenever looted property falling within these categories cannot be found and restored.

11. Germany must make substantial reparation for damage to, or losses, of, non-military property caused by or incident to hostilities. Such reparation shall take the form of (a) confiscation of all German property, claims and interests abroad, (b) deliveries from existing German assets, particularly capital equipment, (c) deliveries from future German output, and (d) German labor services in devastated countries.

12. The reparation burden and schedules for delivery should be determined in such a manner that Germany can discharge its obligation within a period of ten years from the cessation of organized hostilities.

13. The volume and character of German reparation deliveries of capital equipment shall be largely determined in such a way as to reduce Germany's relative predominance in capital goods industries of key importance and to rehabilitate, strengthen and develop such industries in other European countries, as part of a broad program of reconstruction.

14. Germany shall be prohibited from engaging in the production and development of all implements of war. All specialized facilities for the production of armaments shall be destroyed, and all laboratories, plants and testing stations specializing in research, development and testing of implements of war shall be closed and their equipment removed or destroyed.

15. Germany shall also be forbidden to produce or maintain facilities for the production of aircraft, synthetic oil, synthetic rubber and light metals. Production facilities in these industries shall be removed to other countries or destroyed.

16. In order to foster and develop metal, machinery and chemical industries in other countries, exports of competing German products shall be subjected to restraint for a considerable period. At the same time, German production and export of coal and light consumer goods shall be facilitated.

17. German firms shall be prohibited from participating in international cartels or other restrictive contracts or arrangements. Existing German participations in such cartels or arrangements shall be promptly terminated.

18. The scope and execution of the economic disarmament program should be made compatible with the payment of reparation and both the reparation and economic disarmament programs should take into consideration the necessity of maintaining a minimum German standard of living as defined in paragraph 2.

19. In fulfillment of this principle, Germany shall be made to begin paying her own way as soon as possible. There shall be no simultaneous payment of reparation by Germany and extension of credit to Germany. Payment for such imports as are authorized by the Control Council shall be made a first charge on the proceeds of German exports. If Germany is unable to export sufficient goods in excess of reparation deliveries to pay for authorized imports, reparation recipients shall be required to shoulder this deficit in proportion to their respective receipts from reparation.

740.00119 EAC/3-1345

Draft Minutes of a Conference on the Work of the European Advisory Commission and on Plans for Control of Germany, Held at the Department of State, March 13, 1945

Present:

WAR DEPARTMENT

Mr. McCloy
Col. R. Ammi Cutter "
Col. David Marcus
Col. Richard Wilmer "

NAVY DEPARTMENT

Capt. W. H. Vanderbilt
Comdr. Sargent "
Lt. Harding Bancroft

" Assistant Executive Officer to Assistant Secretary of War McCloy.

" Of the Civil Affairs Division, War Department.

" Lt. Comdr. Willis Sargent, Assistant Naval Adviser to the United States Representative on the European Advisory Commission (Winant).

STATE DEPARTMENT

Mr. Matthews, Chairman
Ambassador Murphy
Mr. J. W. Riddleberger
Mr. Phillip Mosely
Mr. Emile Despres "
Mr. Edmund Gullion "

RELATIONS OF EUROPEAN ADVISORY COMMISSION TO WASHINGTON

Mr. Matthews made it clear that the U.S. Representatives on the Commission had acted independently in making certain criticisms of JCS 1067 and that in so doing he had not received any suggestions or communications, formal or informal, from Washington. Mr. Mosely confirmed this and pointed out that Mr. Winant cabled queries to Washington requesting clarification of many points, primarily with the intention of equipping himself for effective negotiation of JCS 1067 in the Commission. He added that General Meyer had not participated in formulating Ambassador Winant's three cables,⁴⁹ with respect to JCS 1067, since those cables referred only to economic and political aspects of 1067.

Mr. McCloy indicated that the War Department's interest was in having an established policy and directive as soon as possible but that he understood the necessity for independent action on the part of the EAC.

SUMMARY OF LONDON OPERATIONS

Mr. Mosely outlined the present position of the work of the Commission as summarized in the attached memorandum, which he circulated. The EAC was generally ready, or was working toward, the establishment of middle-range plans to deal with Germany. There had been approved by the Commission the Instrument of Unconditional Surrender for Germany, the Protocol on Zones of Occupation, and the Agreement on Control Machinery. In addition, sixteen U.S. draft-directives were pending before the Commission, and the other Representatives had agreed to accept most of them as bases for discussion. Some eighteen additional draft-directives had not yet been cleared in Washington. (A list of those pending in Washington is attached.⁵⁰)

⁴⁷ Adviser on German Economic Affairs.

⁴⁸ Of the Division of Western European Affairs.

⁴⁹ Apparent reference to telegrams 947, January 26, 9 p. m.; 1277, February 5, 11 p. m.; and 1278, February 5, 11 p. m., from London, pp. 396, 403, and 405, respectively.

⁵⁰ See bracketed note, p. 370.

week Monday. There would be no question, he said, of the President's having recollected his position. The Secretary said we should now see Morgenthau with Harry White and Mr. Clayton. Mr. Dunn said that the President had called Mr. Grew and Mr. Patterson and Mr. McCloy to the White House at 12:30 today and that he, the President, was now taking over. The Secretary said he didn't understand that, and Mr. Dunn said that the President was taking over at the instigation of our "boy friend". The Secretary said he thought Mr. Clayton should accompany me to the White House meeting, that we should tell the President that he had given us the directive and that we should be permitted to work it out. Mr. Stettinius said that Mr. Clayton ought to tell the President that we do not think that the March 10 directive reverses 1067, and that we are still following the general philosophy of 1067 in our treatment of Germany. Mr. Dunn said the only thing was that the War Department thought that 1067 should be revised.

Mr. Clayton then took the telephone and said that Mr. Stettinius' position was all right as to what position we should take at the White House meeting, but that the President would undoubtedly say that he thought the matter should be reopened and studied again. Mr. Clayton wanted to know what position we should take in that event. The Secretary said he felt very strongly that we ought to stand by our original position. Mr. Clayton said that Morgenthau had sent over a memorandum⁷ containing the points he planned to make. Mr. Clayton stated that he would read only the first point since that was the one that outlined very clearly the sharp divergence we have with Treasury. (He added that the other points could be adjusted.)

"1. We should avoid assuming responsibility for the functioning of internal German economy and its economic controls; the maintenance and rehabilitation of German economy is a German problem and should not be undertaken by us in order to collect reparations or for any other reason except the security of the occupying forces."

The Secretary said that the above was simply impossible—that Hitler would not leave a successor. The Secretary said "if you want to say all right, reorganize it in any way that suits you and put in anybody you want, we will stick by our position".

The Secretary concluded by saying he thought it would be wise to have Mr. Bohlen⁸ on hand at the 12:30 meeting since Mr. Bohlen had kept a record of Yalta and his presence would strengthen our hand.

JOSEPH C. GREW

⁷ See memorandum by the Secretary of the Treasury to President Roosevelt, dated March 20, p. 464.

⁸ Charles E. Bohlen, Assistant to the Secretary of State for White House liaison.

Mar. 2 1945

740.00119 Control (Germany)/3-2345

Memorandum by the Acting Secretary of State to President Roosevelt

WASHINGTON, March 23, 1945.

I am attaching for your approval a memorandum dealing with American policy for the treatment of Germany. It is my belief, and that of the others who attended yesterday's meeting with you, that it represents your views as brought out in our conversation. This memorandum was prepared jointly and has the approval of the State, Treasury and War Departments.

JOSEPH C. GREW

[Annex]

Memorandum Regarding American Policy for the Treatment of Germany⁹

[WASHINGTON,] March 23, 1945.

The following is a summary of U.S. policy relating to Germany in the initial post-defeat period. As such it will be introduced into the European Advisory Commission, and will be used as the basis for directives to be issued to the U.S. Commanding General in Germany.

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

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

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

⁹ A marginal note reads: "O.K. FDR, superseding memo. of Mar 10th 45".

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

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

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

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

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

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

War criminals and those who have participated in planning or

war crimes, shall be arrested, brought to trial and punished. Nazi leaders and influential Nazi supporters and any other persons dangerous to the occupation or its objectives, shall be arrested and interned.

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

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

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

JOSEPH C. GREW
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FRANK COE
HARRY D. WHITE
WILLIAM L. CLAYTON
HENRY MORGENTHAU, JR.

740.00119 EAC/3-1745: Telegram

The Acting Secretary of State to the Ambassador in the United Kingdom (Winant)

WASHINGTON, March 24, 1945—7 p. m.

2292. A new definitive statement of policy to take the place of the memorandum on policy toward Germany, referred to in our 2076, March 17, 5 p. m., has been drafted in collaboration with the War and Treasury Departments. This memorandum dated March 23, 1945 has received the approval of the President and supersedes the memorandum mentioned in our 2076. The new policy statement is considerably shorter than our memorandum of March 10 but contains many of the points made therein. We believe that it sufficiently reflects the Department's point of view to help your continued negotiations in the EAC.

It has been agreed with the War Department that a revision of JCS 1067 must be prepared and likewise that the remaining draft directives must be cleared in Washington and transmitted to you. We shall start to work on both of these at once.

The text of the memorandum of March 23 is contained in Department's immediately following telegram.¹⁰

visional authorities or other governments in Europe when matters of direct interest to them are under consideration.

When, in the opinion of the three governments, conditions in any European liberated state or any former Axis satellite state in Europe make such action necessary, they will immediately consult together on the measures necessary to discharge the joint responsibilities set forth in this declaration.

By this declaration we reaffirm our faith in the principles of the Atlantic Charter, our pledge in the declaration by the United Nations, and our determination to build in cooperation with other peace-loving nations world order under law, dedicated to peace, security, freedom and general well-being of all mankind.

In issuing this declaration, the three powers express the hope that the Provisional Government of the French Republic may be associated with them in the procedure suggested.

Poland

A new situation has been created in Poland as a result of her complete liberation by the Red Army. This calls for the establishment of a Polish provisional government which can be more broadly based than was possible before the recent liberation of Western Poland. The provisional government which is now functioning in Poland should therefore be reorganized on a broader democratic basis with the inclusion of democratic leaders from Poland itself and from Poles abroad. This new government should then be called the Polish Provisional Government of National Unity.

Mr. Molotov, Mr. Harriman and Sir A. Clark Kerr are authorized as a commission to consult in the first instance in Moscow with members of the present provisional government and with other Polish democratic leaders from within Poland and from abroad, with a view to the reorganization of the present government along the above lines. This Polish Provisional Government of National Unity shall be pledged to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot. In these elections all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates.

When a Polish Provisional Government of National Unity has been properly formed in conformity with the above, the government of the USSR, which now maintains diplomatic relations with the present provisional government of Poland, and the government of the United Kingdom and the government of the U.S.A. will establish diplomatic relations with the new Polish Provisional Government of National Unity, and will exchange ambassadors by whose reports the respective governments will be kept informed about the situation in Poland.

The three heads of government consider that the Eastern frontier of Poland should follow the Curzon line with digressions from it in some regions of five to eight kilometers in favor of Poland. They recognize that Poland must receive substantial accessions of territory in the North and West. They feel that the opinion of the new Polish Provisional Government of National Unity should be sought in due course on the extent of these accessions and that the final delimitation of the western frontier of Poland should thereafter await the peace conference. . . .²

²The final sections of the Report dealt with Yugoslavia, the meeting of foreign ministers to be held in future, and the maintenance of unity among the Allies beyond the War.

VIII

DIRECTIVE TO COMMANDER-IN-CHIEF OF UNITED STATES FORCES OF OCCUPATION REGARDING MILITARY GOVERNMENT OF GERMANY.

April 28, 1945¹

It is considered appropriate, at the time of the release to the American public of the following directive setting forth United States policy with reference to the military government of Germany, to preface the directive with a short statement of the circumstances surrounding the issuance of the directive to General Eisenhower.

The directive was issued originally in April, 1945, and was intended to serve two purposes. It was to guide General Eisenhower in the military government of that portion of Germany occupied by United States forces. At the same time he was directed to urge the Control Council to adopt these policies for enforcement throughout Germany.

Before this directive was discussed in the Control Council, President Truman, Prime Minister Attlee, and Generalissimo Stalin met at Potsdam and issued a communiqué setting forth agreed policies for the control of Germany. This communiqué was made public on 2 August 1945. The directive, therefore, should be read in the light of the policies enumerated at Potsdam. In particular, its provisions regarding disarmament, economic and financial matters, and reparations should be read together with the similar provisions set out in the Potsdam Agreement on the treatment of Germany in the initial control period and in the agreement on reparations contained in the Potsdam communiqué. Many of the policy statements contained in the directive have been in substance adopted by the Potsdam Agreement. Some policy statements in the Potsdam Agreement differ from the policy statements on the same subjects in the directive. In such cases, the policies of the Potsdam Agreement are controlling. Where the Potsdam Agreement is silent on matters of policy dealt with in the directive, the latter continues to guide General Eisenhower in his administration of the United States zone in Germany.

DIRECTIVE TO COMMANDER-IN-CHIEF OF UNITED STATES FORCES OF OCCUPATION REGARDING THE MILITARY GOVERNMENT OF GERMANY

1. The Purpose and Scope of this Directive:

This directive is issued to you as Commanding General of the United States Forces of Occupation in Germany. As such you will serve as United States member of the Control Council and will also be responsible for the administration of military government in the zone or zones assigned to the United States for purposes of occupation and administration. It outlines the basic policies which will guide you in those two capacities after the termination of the combined command of the Supreme Commander, Allied Expeditionary Force.

This directive sets forth policies relating to Germany in the initial post-defeat period. As such it is not intended to be an ultimate statement of policies of this Government concerning the treatment of Germany in the postwar world.

¹The document, known as JCS-1067, was sent by the Joint Chiefs of Staff to General Eisenhower on April 28, 1945. The Department of State released it to the press on October 17 adding the introductory statement. Department of State, *Bulletin*, Vol. XIII (1945), pp. 596-607.

It is therefore essential that, during the period covered by this directive, you assure that surveys are constantly maintained of economic, industrial, financial, social and political conditions within your zone and that the results of such surveys and such other surveys as may be made in other zones are made available to your Government, through the Joint Chiefs of Staff. These surveys should be developed in such manner as to serve as a basis for determining changes in the measures of control set forth herein as well as for the progressive formulation and development of policies to promote the basic objectives of the United States. Supplemental directives will be issued to you by the Joint Chiefs of Staff as may be required.

As a member of the Control Council you will urge the adoption by the other occupying powers of the principles and policies set forth in this directive and, pending Control Council agreement, you will follow them in your zone. It is anticipated that substantially similar directives will be issued to the Commanders-in-Chief of the UK, USSR and French forces of occupation.

PART I

GENERAL AND POLITICAL

2. *The Basis of Military Government*

a. The rights, power and status of the military government in Germany are based upon the unconditional surrender or total defeat of Germany.

b. Subject to the provisions of paragraph 3 below, you are, by virtue of your position, clothed with supreme legislative, executive, and judicial authority in the areas occupied by forces under your command. This authority will be broadly construed and includes authority to take all measures deemed by you necessary, appropriate or desirable in relation to military exigencies and the objectives of a firm military government.

c. You will issue a proclamation continuing in force such proclamations, orders and instructions as may have heretofore been issued by Allied Commanders in your zone, subject to such changes as you may determine. Authorizations of action by the Supreme Commander, Allied Expeditionary Force, may be considered as applicable to you unless inconsistent with this or later directives.

3. *The Control Council and Zones of Occupation:*

a. The Four Commanders-in-Chief, acting jointly, will constitute the Control Council in Germany, which will be the supreme organ of control over Germany in accordance with the agreement on Control Machinery in Germany. For purposes of administration of military government, Germany has been divided into four zones of occupation.

b. The authority of the Control Council to formulate policy and procedures and administrative relationships with respect to matters affecting Germany as a whole will be paramount throughout Germany. You will carry out and support in your zone the policies agreed upon in the Control Council. In the absence of such agreed policies you will act in accordance with this and other directives of the Joint Chiefs of Staff.

c. The administration of affairs in Germany shall be directed toward the decentralization of the political and administrative structure and the development of local responsibility. To this end you will encourage autonomy in regional, local and municipal agencies of German administration. The German

economic structure shall also be decentralized. The Control Council may, however, to the minimum extent required for the fulfillment of purposes set forth herein, permit centralized administration or establish central control of (a) essential national public services, such as railroads, communications and power, (b) finance and foreign affairs and (c) production and distribution of essential commodities.

d. The Control Council should adopt procedures to effectuate, and you will facilitate in your zone, the equitable distribution of essential commodities between the zones. In the absence of a conflicting policy of the Control Council, you may deal directly with one or more zone commanders on matters of special concern to such zones.

e. Pending the formulation in the Control Council of uniform policies and procedures with respect to interzonal travel and movement of civilians, no civilians shall be permitted to leave or enter your zone without your authority, and no Germans within your zone shall be permitted to leave Germany except for specific purposes approved by you.

f. The military government personnel in each zone, including those dealing with regional and local branches of the departments of any central German administrative machinery, shall be selected by authority of the commander of that zone except that liaison officers may be furnished by the Commanders of the other three zones. The respective Commanders-in-Chief shall have exclusive jurisdiction throughout the whole of Germany over the members of the armed forces under their command and over the civilians who accompany them.

g. The Control Council should be responsible for facilitating the severance of all governmental and administrative connections between Austria and Germany and the elimination of German economic influences in Austria. Every assistance should be given to the Allied Administration in Austria in its efforts to effectuate these purposes.

4. *Basic Objectives of Military Government in Germany:*

a. It should be brought home to the Germans that Germany's ruthless warfare and the fanatical Nazi resistance have destroyed the German economy and made chaos and suffering inevitable and that the Germans cannot escape responsibility for what they have brought upon themselves.

b. Germany will not be occupied for the purpose of liberation but as a defeated enemy nation. Your aim is not oppression but to occupy Germany for the purpose of realizing certain important Allied objectives. In the conduct of your occupation and administration you should be just but firm and aloof. You will strongly discourage fraternization with the German officials and population.

c. The principal Allied objective is to prevent Germany from ever again becoming a threat to the peace of the world. Essential steps in the accomplishment of this objective are the elimination of Nazism and militarism in all their forms, the immediate apprehension of war criminals for punishment, the industrial disarmament and demilitarization of Germany, with continuing control over Germany's capacity to make war, and the preparation for an eventual reconstruction of German political life on a democratic basis.

d. Other Allied objectives are to enforce the program of reparations and restitution, to provide relief for the benefit of countries devastated by Nazi aggression, and to ensure that prisoners of war and displaced persons of the United Nations are cared for and repatriated.

5. *Economic Controls:*

a. As a member of the Control Council and as zone commander, you will be guided by the principle that controls upon the German economy may be imposed to the extent that such controls may be necessary to achieve the objectives enumerated in paragraph 4 above, and also as they may be essential to protect the safety and meet the needs of the occupying forces and assume the production and maintenance of goods and services required to prevent starvation or such disease and unrest as would endanger these forces. No action will be taken in execution of the reparations program or otherwise which would tend to support basic living conditions in Germany or in your zone on a higher level than that existing in any one of the neighboring United Nations.

b. In the imposition and maintenance of such controls as may be prescribed by you or the Control Council, German authorities will to the fullest extent practicable be ordered to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls and for any breakdowns in those controls will rest with themselves and German authorities.

6. *Denazification:*

a. A Proclamation, dissolving the Nazi party, its formations, affiliated associations and supervised organizations, and all Nazi public institutions which were set up as instruments of Party domination, and prohibiting their revival in any form, should be promulgated by the Control Council. You will assure the prompt effectuation of that policy in your zone and will make every effort to prevent the reconstitution of any such organization in underground, disguised or secret form. Responsibility for continuing desirable non-political social services of dissolved Party organizations may be transferred by the Control Council to appropriate central agencies and by you to appropriate local agencies.

b. The laws purporting to establish the political structure of National Socialism and the basis of the Hitler regime and all laws, decrees and regulations which establish discriminations on grounds of race, nationality, creed or political opinions should be abrogated by the Control Council. You will render them inoperative in your zone.

c. All members of the Nazi party who have been more than nominal participants in its activities, all active supporters of Nazism or militarism and all other persons hostile to Allied purposes will be removed and excluded from public office and from positions of importance in quasi-public and private enterprises such as (1) civic, economic and labor organizations, (2) corporations and other organizations in which the German Government or subdivisions have a major financial interest, (3) industry, commerce, agriculture and finance, (4) education, and (5) the press, publishing houses and other agencies disseminating news and propaganda. Persons are to be treated as more than nominal participants in party activities and as active supporters of Nazism or militarism when they have (1) held office or otherwise been active at any level from local to national in the party and its subordinate organizations, or in organizations which further militaristic doctrines, (2) authorized or participated affirmatively in any Nazi crimes, racial persecutions or discriminations, (3) been avowed believers in Nazism or racial and militaristic creeds, or (4) voluntarily given substantial moral or material support or political assistance of any kind to the Nazi Party or Nazi officials and leaders. No such persons shall be

retained in any of the categories of employment listed above because of administrative necessity, convenience or expediency.

d. Property, real and personal, owned or controlled by the Nazi party, its formations, affiliated associations and supervised organizations, and by all persons subject to arrest under the provisions of paragraph 8, and found within your zone, will be taken under your control pending a decision by the Control Council or higher authority as to its eventual disposition.

e. All archives, monuments and museums of Nazi inception, or which are devoted to the perpetuation of German militarism, will be taken under your control and their properties held pending decision as to their disposition by the Control Council.

f. You will make special efforts to preserve from destruction and take under your control records, plans, books, documents, papers, files, and scientific, industrial and other information and data belonging to or controlled by the following:

(1) The Central German Government and its subdivisions, German military organizations, organizations engaged in military research, and such other governmental agencies as may be deemed advisable;

(2) The Nazi Party, its formations, affiliated associations and supervised organizations;

(3) All police organizations, including security and political police;

(4) Important economic organizations and industrial establishments, including those controlled by the Nazi Party or its personnel;

(5) Institutes and special bureaus devoting themselves to racial, political, militaristic or similar research or propaganda.

7. *Demilitarization:*

a. In your zone you will assure that all units of the German armed forces, including para-military organizations, are dissolved as such, and that their personnel are promptly disarmed and controlled. Prior to their final disposition, you will arrest and hold all military personnel who are included under the provisions of paragraph 8.

b. The Control Council should proclaim, and in your zone you will effectuate, the total dissolution of all military and para-military organizations, including the General Staff, the German Officers' Corps, the Reserve Corps and military academies, together with all associations which might serve to keep alive the military tradition in Germany.

c. You will seize or destroy all arms, ammunition and implements of war and stop the production thereof.

d. You will take proper steps to destroy the German war potential, as set forth elsewhere in this directive.

8. *Suspected War Criminals and Security Arrests:*

a. You will search out, arrest and hold, pending receipt by you of further instructions as to their disposition, Adolf Hitler, his chief Nazi associates, other war criminals and all persons who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes.

b. All persons who, if permitted to remain at large would endanger the accomplishment of your objectives will also be arrested and held in custody until trial by an appropriate semi-judicial body to be established by you. The

following is a partial list of the categories of persons in order to carry out this policy.

[Note: There follows at this point in the directive a detailed list of categories of Nazi war criminals and others who are to be arrested. Some of these have not yet been found. It is considered that to publish the categories at this time would put the individuals concerned on notice and would interfere with their apprehension and punishment, where appropriate. The list of categories is, therefore, withheld from publication for the present.]

If in the light of conditions which you encounter in Germany, you believe that it is not immediately feasible to subject certain persons within these categories to this treatment, you should report your reasons and recommendations to your Government through the Joint Chiefs of Staff. If you believe it desirable, you may postpone the arrest of those whose cases you have reported, pending a decision communicated to you by the J.C.S. In no event shall any differentiation be made between or special consideration be accorded to persons arrested, either as to manner of arrest or conditions of detention, upon the basis of wealth or political, industrial, or other rank or position. In your discretion you may make such exceptions as you deem advisable for intelligence or other military reasons.

9. Political Activities:

a. No political activities of any kind shall be countenanced unless authorized by you. You will assure that your military government does not become committed to any political group.

b. You will prohibit the propagation in any form of Nazi militaristic or pan-German doctrines.

c. No German parades, military or political, civilian or sports, shall be permitted by you.

d. To the extent that military interests are not prejudiced and subject to the provisions of the three preceding subparagraphs and of paragraph 10, freedom of speech, press and religious worship will be permitted. Consistent with military necessity, all religious institutions will be respected.

10. Public Relations and Control of Public Information:

As a member of the Control Council, you will endeavor to obtain agreement for uniform and coordinated policies with respect to (a) control of public information media in Germany, (b) accrediting of foreign correspondents, (c) press censorship, and (d) issuance of official news communiqués dealing with Control Council matters. United States policies in these matters will be sent to you separately and you will be guided by these in your negotiations on the Control Council.

11. German Courts:

a. All extraordinary courts, including the *Volksgerichtshof* (People's Court) and the *Sondergerichte* (Special Courts), and all courts and tribunals of the Nazi Party and of its formations, affiliated associations and supervised organizations will be abolished immediately.

b. All ordinary criminal, civil and administrative courts, except those previously re-established by order of the military government, will be closed. After the elimination of all Nazi features and personnel you will permit those which are to exercise jurisdiction within the boundaries of your zone to resume opera-

tions under such regulations, supervision and control as you may consider appropriate. Courts which are to exercise jurisdiction over territory extending beyond the boundaries of your zone will be reopened only with the express authorization of the Control Council and under its regulation, supervision and control. The power to review and veto decisions of German courts shall be included within the power of supervision and control.

12. Police:

With the exception of the *Reichskriminalpolizei* (Criminal Police), all elements of the *Sicherheitspolizei* (Security Police), e.g., *Geheime Staatspolizei* (Gestapo), and the *Sicherheitsdienst der S.S.* will be abolished. Criminal and ordinary police will be purged of Nazi personnel and utilized under the control and supervision of the Military Government.

13. Political Prisoners:

Subject to military security and the interests of the individuals concerned, you will release all persons found within your zone who have been detained or placed in custody on grounds of race, nationality, creed or political opinions and treat them as displaced persons. You should make provision for the review of convictions of alleged criminal offenses about which there may be substantial suspicion of racial, religious or political persecution, and in which sentences of imprisonment have not been fully served by persons imprisoned within your zone.

14. Education:

a. All educational institutions within your zone, except those previously re-established by Allied authority, will be closed. The closure of Nazi educational institutions, such as Adolf Hitler Schulen, Napolas and Ordensburgen, and of Nazi organizations within other educational institutions will be permanent.

b. A coordinated system of control over German education and an affirmative program of reorientation will be established, designed completely to eliminate Nazi and militaristic doctrines and to encourage the development of democratic ideas.

c. You will permit the reopening of elementary (*Volksschulen*), middle (*Mittelschulen*) and vocational (*Berufsschulen*) schools at the earliest possible date after Nazi personnel has been eliminated. Textbooks and curricula which are not free of Nazi and militaristic doctrine shall not be used. The Control Council should devise programs looking toward the reopening of secondary schools, universities and other institutions of higher learning. After Nazi features and personnel have been eliminated and pending the formulation of such programs by the Control Council, you may formulate and put into effect an interim program within your zone and in any case may permit the reopening of such institutions and departments which offer training which you consider immediately essential or useful in the administration of military government and the purpose of the occupation.

d. It is not intended that the military government will intervene in questions concerning denominational control of German schools, or in religious instruction in German schools, except insofar as may be necessary to insure that religious instruction and administration of such schools conform to such Allied regulations as are or may be established pertaining to purging of personnel and curricula.

15. *Arts and Archives:*

Subject to the provisions of paragraph 6 above, you will make all reasonable efforts to preserve historical archives, museums, libraries and works of art.

PART II

ECONOMIC

General Objectives and Methods of Control.

16. You will assure that the German economy is administered and controlled in such a way as to accomplish the basic objectives set forth in paragraphs 4 and 5 of this directive. Economic controls will be imposed only to the extent necessary to accomplish these objectives, provided that you will impose controls to the full extent necessary to achieve the industrial disarmament of Germany. Except as may be necessary to carry out these objectives, you will take no steps (a) looking toward the economic rehabilitation of Germany, or (b) designed to maintain or strengthen the German economy.

17. To the maximum extent possible without jeopardizing the successful execution of measures required to implement the objectives outlined in paragraphs 4 and 5 of this directive you will use German authorities and agencies and subject them to such supervision and punishment for non-compliance as is necessary to insure that they carry out their tasks.

For this purpose you will give appropriate authority to any German agencies and administrative services you consider essential; provided, however, that you will at all times adhere strictly to the provisions of this directive regarding denazification and dissolution or elimination of Nazi organizations, institutions, principles, features and practices.

To the extent necessary you will establish administrative machinery, not dependent upon German authorities and agencies, to execute or assure the execution of the provisions of paragraphs 19, 20, 30, 31, 32, 39 and 40 and any other measures necessary to an accomplishment of your industrial disarmament objectives.

18. In order to decentralize the structure and administration of the German economy to the maximum possible extent, you will:

a. Ensure that the action required to maintain or restore essential public utilities and industrial and agricultural activities is taken as far as possible on a local and regional basis;

b. on no account propose or approve in the Control Council the establishment of centralized administration of controls over the German economy except where such centralization of administration is clearly essential to the fulfillment of the objectives listed in paragraphs 4 and 5 of this directive. Decentralization in administration should not be permitted to interfere with attainment of the largest practicable measure of agreement on economic policies in the Control Council.

19. You will institute or assure the maintenance of such statistical records and reports as may be necessary in carrying out the objectives listed in paragraphs 4 and 5 of this directive.

20. You will initiate appropriate surveys which may assist you in achieving the objectives of the occupation. In particular you will promptly undertake surveys of supplies, equipment and resources in your zone. You will endeavor to obtain prompt agreement in the Control Council to the making of similar

surveys in the other zones of occupation, and you will urge appropriate steps to coordinate the methods and results of these and other future surveys conducted in the various zones. You will keep the Control Council, United States representative on the Reparation Commission and other appropriate authorities, currently apprised of the information obtained by means of intermediate reports or otherwise.

German Standards of Living

21. You will estimate requirements of supplies necessary to prevent starvation or widespread disease or such civil unrest as would endanger the occupying forces. Such estimates will be based upon a program whereby the Germans are made responsible for providing for themselves, out of their own work and resources. You will take all practicable economic and police measures to assure that German resources are fully utilized and consumption held to the minimum in order that imports may be strictly limited and that surpluses may be made available for the occupying forces and displaced persons and United Nations prisoners of war, and for reparation. You will take no action that would tend to support basic living standards in Germany on a higher level than that existing in any one of the neighboring United Nations and you will take appropriate measures to ensure that basic living standards of the German people are not higher than those existing in any one of the neighboring United Nations when such measures will contribute to raising the standards of any such nation.

22. You will urge upon the Control Council that uniform ration scales be applied throughout Germany, that essential items be distributed equitably among the zones, that net surpluses be made available for export to Allied countries, and that imports be limited to the net deficits of Germany as a whole.

Labor, Health and Social Insurance

23. You will permit the self-organization of employees along democratic lines, subject to such safeguards as may be necessary to prevent the perpetuation of Nazi or militarist influence under any guise or the continuation of any group hostile to the objectives and operations of the occupying forces.

24. You will permit free collective bargaining between employees and employers regarding wage, hour and working conditions and the establishment of machinery for the settlement of industrial disputes. Collective bargaining shall be subject to such wage, hour and other controls, if any, as may be instituted or revived by your direction.

25. Subject to the provisions of paragraph 48 of this directive you are authorized to direct German authorities to maintain or reestablish non-discriminatory systems of social insurance and poor relief.

26. You are authorized to direct the German authorities to maintain or reestablish such health services and facilities as may be available to them.

Agriculture, Industry and Internal Commerce

27. You will require the Germans to use all means at their disposal to maximize agricultural output and to establish as rapidly as possible effective machinery for the collection and distribution of agricultural output.

28. You will direct the German authorities to utilize large-landed estates and public lands in a manner which will facilitate the accommodation and settlement of Germans and others or increase agricultural output.

29. You will protect from destruction by the Germans, and maintain for such disposition as is determined by this and other directives or by the Control Council

cil, all plants, equipment, patents and other property, and all books and records of large German industrial companies and trade and research associations that have been essential to the German war effort or the German economy. You will pay particular attention to research and experimental establishments of such concerns.

30. In order to disarm Germany, the Control Council should

a. prevent the production, acquisition by importation or otherwise, and development of all arms, ammunition and implements of war, as well as all types of aircraft, and all parts, components and ingredients specially designed or produced for incorporation therein;

b. prevent the production of merchant ships, synthetic rubber and oil, aluminum and magnesium and any other products and equipment on which you will subsequently receive instructions;

c. Seize and safeguard all facilities used in the production of any of the items mentioned in this paragraph and dispose of them as follows:

(1) remove all those required for reparation;

(2) destroy all those not transferred for reparation if they are especially adapted to the production of the items specified in this paragraph and are not of a type generally used in industries permitted to the Germans (cases of doubt to be resolved in favor of destruction);

(3) hold the balance for disposal in accordance with instructions which will be sent to you.

Pending agreement in the Control Council you will take these measures in your zone. You will not postpone enforcement of the prohibitions contained in sub-paragraphs a and b and the instructions in sub-paragraphs c without specific approval of your Government through the Joint Chiefs of Staff except that, in your discretion, you may permit the production of synthetic rubber and oil, aluminum and magnesium, to the minimum extent necessary to meet the purposes stated in paragraphs 4 and 5 of the directive pending action by the Joint Chiefs of Staff upon such recommendation for postponement as you may make.

31. As an additional measure of disarmament, the Control Council should

a. prohibit initially all research activities and close all laboratories, research institutions and similar technical organizations except those considered necessary to the protection of public health;

b. abolish all those laboratories and related institutions whose work has been connected with the building of the German war machine, safeguard initially such laboratories and detain such personnel as are of interest to your technological investigations, and thereafter remove or destroy their equipment;

c. permit the resumption of scientific research in specific cases, only after careful investigation has established that the contemplated research will in no way contribute to Germany's future war potential and only under appropriate regulations which (1) define the specific types of research permitted, (2) exclude from further research activity any persons who previously held key positions in German war research, (3) provide for frequent inspection, (4) require free disclosure of the results of the research and (5) impose severe penalties, including permanent closing of the offending institution, whenever the regulations are violated.

Pending agreement in the Control Council you will adopt such measures in your own zone.

32. Pending final Allied agreements on reparation and on control or elimination of German industries that can be utilized for war production, the Control Council should

a. prohibit and prevent production of iron and steel, chemicals, non-ferrous metals (excluding aluminum and magnesium), machine tools, radio and electrical equipment, automotive vehicles, heavy machinery and important parts thereof, except for the purposes stated in paragraphs 4 and 5 of this directive;

b. prohibit and prevent rehabilitation of plant and equipment in such industries except for the purposes stated in paragraphs 4 and 5 of this directive; and

c. safeguard plant and equipment in such industries for transfer on reparation account.

Pending agreement in the Control Council, you will put such measures into effect in your own zone as soon as you have had an opportunity to review and determine production necessary for the purposes stated in paragraphs 4 and 5 of this directive.

33. The Control Council should adopt a policy permitting the conversion of facilities other than those mentioned in paragraphs 30 and 32 to the production of light consumer goods, provided that such conversion does not prejudice the subsequent removal of plant and equipment on reparation account and does not require any imports beyond those necessary for the purposes specified in paragraphs 4 and 5 of this directive. Pending agreement in the Control Council, you may permit such conversion in your zone.

34. Subject to the provisions of paragraphs 30 and 32, the Control Council should assure that all feasible measures are taken to facilitate, to the minimum extent necessary for the purposes outlined in paragraphs 4 and 5 of this directive:

a. repairs to and restoration of essential transportation services and public utilities;

b. emergency repair and construction of the minimum shelter required for the civilian population;

c. production of coal and any other goods and services (excluding goods specified in paragraphs 30 and 32, unless measures to facilitate production are specifically approved by this Government through the Joint Chiefs of Staff) required for the purposes outlined in paragraphs 4 and 5 of this directive.

You will assure that such measures are taken in your own zone pending agreement in the Control Council.

35. In your capacity as zone commander and as member of the Control Council you will take steps to provide for the equitable interzonal distribution and the movement of goods and services essential to the purposes set forth in paragraphs 4 and 5 of this directive.

36. You will prohibit all cartels or other private business arrangements and cartel-like organizations, including those of a public or quasi-public character, such as the *Wirtschaftsgruppen*, providing for the regulation of marketing conditions, including production, prices, exclusive exchange of technical information and processes, and allocation of sales territories. Such necessary public functions as have been discharged by these organizations shall be absorbed as rapidly as possible by approved public agencies.

37. It is the policy of your Government to effect a dispersion of the ownership and control of German industry. To assist in carrying out this policy you will make a survey of combines and pools, mergers, holding companies and interlocking directorates and communicate the results, together with recommen-

dations, to your Government through the Joint Chiefs of Staff. You will endeavor to obtain agreement in the Control Council to the making of this survey in the other zones of occupation and you will urge the coordination of the methods and results of this survey in the various zones.

38. With due regard to paragraph 4a, the Control Council should adopt such policies as are clearly necessary to prevent or restrain inflation of a character or dimension which would definitely endanger accomplishment of the objectives of the occupation. The Control Council, in particular, should direct and empower German authorities to maintain or establish controls over prices and wages and to take the fiscal and financial measures necessary to this end. Pending agreement in the Control Council you will assure that such measures as you consider necessary are taken in your own zone. Prevention or restraint of inflation shall not constitute an additional ground for the importation of supplies, nor shall it constitute an additional ground for limiting removal, destruction or curtailment of productive facilities in fulfillment of the program for reparation, demilitarization and industrial disarmament.

Power, Transportation and Communications

39. Both as a member of the Control Council and zone commander you will take appropriate steps to ensure that

- a. power, transportation and communications facilities are directed in such a way as to carry out the objectives outlined in paragraphs 4 and 5 of this directive;
- b. Germans are prohibited and prevented from producing, maintaining or operating all types of aircraft.

You will determine the degree to which centralized control and administration of power, transportation and communications is clearly necessary for the objectives stated in paragraphs 4 and 5 and urge the establishment of this degree of centralized control and administration by the Control Council.

Foreign Trade and Reparations

40. The Control Council should establish centralized control over all trades in goods and services with foreign countries. Pending agreement in the Control Council you will impose appropriate controls in your own zone.

41. Both as member of the Control Council and as zone commander you will take appropriate steps to ensure that

- a. the foreign trade controls are designed to carry out the objectives stated in paragraphs 4 and 5 of this directive;
- b. imports which are permitted and furnished to Germany are confined to those unavoidably necessary to the objectives stated in paragraphs 4 and 5;
- c. exports to countries other than the United Nations are prohibited unless specifically authorized by the Allied Governments.

42. Both as member of the Control Council and as zone commander you will adopt a policy which would forbid German firms to participate in international cartels or other restrictive contracts and arrangements and order the prompt termination of all existing German participations in such cartels, contracts and arrangements.

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

PART III

FINANCIAL

44. You will make full application in the financial field of the principles stated elsewhere in this directive and you will endeavor to have the Control Council adopt uniform financial policies necessary to carry out the purposes stated in paragraphs 4 and 5 of this directive. You will take no steps designed to maintain, strengthen or operate the German financial structure except insofar as may be necessary for the purposes specified in this directive.

45. The Control Council should regulate and control to the extent required for the purposes set forth in paragraphs 4 and 5 the issue and volume of currency and the extension of credit in Germany and in accordance with the following principles:

- a. United States and other Allied forces will use Allied Military marks and Reichsmark currency or coins in their possession. Allied Military marks and Reichsmark currency and coin now in circulation in Germany will be legal tender without distinction and will be interchangeable at the rate of 1 Allied Military mark for 1 Reichsmark. Reichskreditkassenscheine and other German military currency will not be legal tender in Germany.

- b. The Reichsbank, the Rentenbank or any other bank or agency may be permitted or required to issue bank notes and currency which will be legal tender; without such authorization no German governmental or private bank or agency will be permitted to issue bank notes or currency.

- c. The German authorities may be required to make available Reichsmark currency or credits free of cost and in amounts sufficient to meet all expenses of the forces of occupation, including the cost of Allied Military Government and including to the extent that compensation is made therefor, the cost of such private property as may be requisitioned, seized, or otherwise acquired, by Allied authorities for reparations or restitution purposes.

Pending agreement in the Control Council you will follow these policies in your own zone.

You will receive separate instructions relative to the currency which you will use in the event that for any reason adequate supplies of Allied Military marks and Reichsmarks are not available, or if the use of such currency is found undesirable.

You will not announce or establish in your zone, until receipt of further instructions, any general rate of exchange between the Reichsmark on the one hand and the U. S. dollar and other currencies on the other. However, a rate of exchange to be used exclusively for pay of troops and military accounting purposes in your zone will be communicated separately to you.

46. Subject to any agreed policies of the Control Council, you are authorized to take the following steps and to put into effect such further financial measures as you may deem necessary to accomplish the purposes of your occupation:

- a. To prohibit, or to prescribe regulations regarding transfer or other dealings in private or public securities or real estate or other property.

- b. To close banks, but only for a period long enough for you to introduce satisfactory control, to remove Nazi and other undesirable personnel and to issue instructions for the determination of accounts to be blocked under sub-paragraph 48e below.

c. To close stock exchanges, insurance companies and similar financial institutions for such periods of time as you deem appropriate.

d. To establish a general or limited moratorium or moratoria only to the extent clearly necessary to carry out the objectives stated in paragraphs 4 and 5 of this directive.

47. Resumption of partial or complete service on the internal public debt at the earliest feasible date is deemed desirable. The Control Council should decide the time and manner of such resumption.

48. Subject to any agreed policies of the Control Council,

a. You will prohibit:

(1) the payment of all military pensions, or emoluments or benefits, except compensation for physical disability limiting the recipient's ability to work, at rates which are no higher than the lowest of those for comparable physical disability arising from non-military causes.

(2) the payment of all public or private pensions or other emoluments or benefits granted or conferred:

(a) by reason of membership in or services to the former Nazi party, its formations, affiliated associations or supervised organizations;

(b) to any person who has been removed from an office or position in accordance with paragraph 6, and

(c) to any person arrested and detained in accordance with paragraph 8 during the term of his arrest, or permanently, in case of his subsequent conviction.

b. You will take such action as may be necessary to insure that all laws and practices relating to taxation or other fields of finance, which discriminate for or against any persons because of race, nationality, creed or political opinion, will be amended, suspended or abrogated to the extent necessary to eliminate such discrimination.

c. You will hold the German authorities responsible for taking such measures in the field of taxation and other fields of public finance, including restoration of the tax system and maintenance of tax revenues, as will further the accomplishment of the objectives stated in paragraphs 4 and 5.

d. You will exercise general supervision over German public expenditures in order to ensure that they are consistent with the objectives stated in paragraphs 4 and 5.

e. You will impound or block all gold, silver, currencies, securities, accounts in financial institutions, credits, valuable papers and all other assets falling within the following categories;

(1) Property owned or controlled directly or indirectly, in whole or in part, by any of the following:

(a) The German Reich, or any of the Laender, Gause or provinces, any Kreis, municipality or other similar local subdivision; or any agency or instrumentality of any of them including all utilities, undertakings, public corporations or monopolies under the control of any of the above;

(b) Governments, nationals or residents of other nations, including those of territories occupied by them, at war with any of the United Nations at any time since September 1, 1939;

(c) The Nazi Party, its formations, affiliated associations and supervised organizations, its officials, leading members and supporters;

(d) All organizations, clubs or other associations prohibited or dissolved by military government;

(e) Absentee owners of non-German nationality including United Nations and neutral governments and Germans outside Germany;

(f) Any institution dedicated to public worship, charity, education or the arts and sciences which has been used by the Nazi Party to further its interests or to cloak its activities;

(g) Persons subject to arrest under provisions of paragraph 8, and all other persons specified by military government by inclusion in lists or otherwise.

(2) Property which has 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 laws or otherwise.

(3) Works of art or cultural material of value or importance, regardless of the ownership thereof.

You will take such action as will insure that any impounded or blocked assets will be dealt with only as permitted under licenses or other instructions which you may issue. In the case particularly of property blocked under (1) (a) above, you will proceed to adopt licensing measures which, while maintaining such property under surveillance, would permit its use in consonance with this directive. In the case of property blocked under (2) above, you will institute measures for prompt restitution, in conformity with the objectives stated in paragraphs 4 and 5 and subject to appropriate safeguards to prevent the cloaking of Nazi and militaristic influence.

49. All foreign exchange transactions, including those arising out of exports and imports, shall be controlled with the aim of preventing Germany from developing a war potential and of achieving the other objectives set forth in this directive. To effectuate these purposes the Control Council should

a. Seek out and reduce to the possession and control of a special agency all German (public and private) foreign exchange and external assets of every kind and description located within or outside Germany.

b. Prohibit, except as authorized by regulation or license, all dealings in gold, silver, foreign exchange, and all foreign exchange transactions of any kind. Make available any foreign exchange proceeds of exports for payment of imports directly necessary to the accomplishment of the objectives stated in paragraphs 4 and 5 of this directive, and authorize no other outlay of foreign exchange assets except for purposes approved by the Control Council or other appropriate authority.

c. Establish effective controls with respect to all foreign-exchange transactions, including:

(1) Transactions as to property between persons inside Germany and persons outside Germany;

(2) Transactions involving obligations owed by or to become due from any person in Germany to any person outside Germany; and

(3) Transactions involving the importation into or exportation from Germany of any foreign exchange asset or other form of property.

Pending agreement in the Control Council, you will take in your zone the action indicated in sub-paragraphs a, b and c above. Accordingly, you will in your zone reduce to the possession and control of a special agency established by you, within your Command, all German foreign exchange and external assets as provided in sub-paragraph a. You will endeavor to have similar agencies for the same purpose established in the other zones of occupation and to have them merged as soon as practicable in one agency for the entire occupied territory.

In addition, you will provide full reports to your government with respect to all German foreign exchange and external assets.

50. No extension of credit to Germany or Germans by any foreign person or Government shall be permitted except that the Control Council may in special emergencies grant permission for such extensions of credit.

51. It is not anticipated that you will make credits available to the Reichsbank or any other bank or to any public or private institution. If, in your opinion, such action becomes essential, you may take such emergency action as you may deem proper, but in any event, you will report the facts to the Control Council.

52. You will maintain such accounts and records as may be necessary to reflect the financial operations of the military government in your zone and you will provide the Control Council with such information as it may require, including information in connection with the use of currency by your forces, any governmental settlements, occupation costs, and other expenditures arising out of operations or activities involving participation of your forces.

IX

DOCUMENT OF MILITARY SURRENDER OF THE GERMAN ARMED FORCES

May 8, 1945¹

1. We, the undersigned, acting by authority of the German High Command, hereby surrender unconditionally to the Supreme Commander, Allied Expeditionary Force, and simultaneously to the Supreme High Command of the Red Army all forces on land, at sea, and in the air who are at this date under German control.

2. The German High Command will at once issue orders to all German military, naval and air authorities and to all forces under German control to cease active operations at 2301 hours Central European time on 8th May 1945, to remain in the positions occupied at the time and to disarm completely, handing over their weapons and equipment to the local allied commanders or officers designated by Representatives of the Allied Supreme Commands. No ship, vessel, or aircraft is to be scuttled, or any damage done to their hull, machinery, or equipment, **and also to machines of all kinds, armament, apparatus, and all the technical means of prosecution of war in general.**

3. The German High Command will at once issue to the appropriate commanders, and ensure the carrying out of any further orders issued by the Supreme Commander, Allied Expeditionary Force and by the Supreme High Command of the Red Army.

4. This act of military surrender is without prejudice to, and will be superseded by any general instrument of surrender imposed by, or on behalf of the United Nations and applicable to GERMANY and the German armed forces as a whole.

5. In the event of the German High Command or any of the forces under

¹This document signed at Berlin-Karlshorst by Admiral Friedeburg, General Keitel and General Stumpf on one side and by Marshals Tedder and Zhukov on the other is practically identical with the act of surrender signed at Rheims on May 7, 1945 by General Jodl and by Generals Smith, Susloparov, and Sevez. The Rheims document does not contain the statement which is marked by two asterisks. The texts were first officially published in Department of State, *Bulletin*, Vol. XIII (1945), p. 106.

their control failing to act in accordance with this Act of Surrender, the Supreme Commander, Allied Expeditionary Force and the Supreme Command of the Red Army will take such punitive or other action as they deem appropriate.

6. This Act is drawn up in the English, Russian and German languages. The English and Russian are the only authentic texts. Signed at Berlin on the 8th day of May, 1945.

X

DECLARATION REGARDING DEFEAT OF GERMANY AND ASSUMPTION OF SUPREME AUTHORITY BY ALLIED POWERS

June 5, 1945¹

The German armed forces on land, at sea and in the air have been completely defeated and have surrendered unconditionally and Germany, which bears responsibility for the war, is no longer capable of resisting the will of the victorious powers. The unconditional surrender of Germany has thereby been effected, and Germany has become subject to such requirements as may now or hereafter be imposed upon her.

There is no central government or authority in Germany capable of accepting responsibility for the maintenance of order, the administration of the country and compliance with the requirements of the victorious Powers.

It is in these circumstances necessary, without prejudice to any subsequent decisions that may be taken respecting Germany, to make provision for the cessation of any further hostilities on the part of the German armed forces, for the maintenance of order in Germany and for the administration of the country, and to announce the immediate requirements with which Germany must comply.

The representatives of the Supreme Commands of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom and the French Republic, hereinafter called the "Allied Representatives," acting by authority of their respective Governments and in the interests of the United Nations, accordingly make the following Declaration:

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, hereby assume supreme authority with respect to Germany, including all the powers possessed by the German Government, the High Command and any state, municipal or local government, or authority. The assumption, for the purposes stated above, of the said authority and powers does not effect the annexation of Germany.

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, will hereafter determine the boundaries of Germany or any part thereof and the status of Germany or of any area at present being part of German territory.

In virtue of the supreme authority and powers thus assumed by the four governments, the Allied representatives announce the following requirements arising from the complete defeat and unconditional surrender of Germany with which Germany must comply:

¹The Declaration was signed in Berlin by General Eisenhower, Marshal Zhukov, Field Marshal Montgomery, General De Lattre de Tassigny. Department of State, *Bulletin*, Vol. XII (1945), pp. 1051-1055.

In addition, you will provide full reports to your government with respect to all German foreign exchange and external assets.

50. No extension of credit to Germany or Germans by any foreign person or Government shall be permitted except that the Control Council may in special emergencies grant permission for such extensions of credit.

51. It is not anticipated that you will make credits available to the Reichsbank or any other bank or to any public or private institution. If, in your opinion, such action becomes essential, you may take such emergency action as you may deem proper, but in any event, you will report the facts to the Control Council.

52. You will maintain such accounts and records as may be necessary to reflect the financial operations of the military government in your zone and you will provide the Control Council with such information as it may require, including information in connection with the use of currency by your forces, any governmental settlements, occupation costs, and other expenditures arising out of operations or activities involving participation of your forces.

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2. The German High Command will at once issue orders to all German military, naval and air authorities and to all forces under German control to cease active operations at 2301 hours Central European time on 8th May 1945, to remain in the positions occupied at the time and to disarm completely, handing over their weapons and equipment to the local allied commanders or officers designated by representatives of the Allied Supreme Commands. No ship, vessel, or aircraft is to be scuttled, or any damage done to their hull, machinery, or equipment, **and also to machines of all kinds, armament, apparatus, and all the technical means of prosecution of war in general.**

3. The German High Command will at once issue to the appropriate commanders, and ensure the carrying out of any further orders issued by the Supreme Commander, Allied Expeditionary Force and by the Supreme High Command of the Red Army.

4. This act of military surrender is without prejudice to, and will be superseded by any general instrument of surrender imposed by, or on behalf of the United Nations and applicable to GERMANY and the German armed forces as a whole.

5. In the event of the German High Command or any of the forces under

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There is no central government or authority in Germany capable of accepting responsibility for the maintenance of order, the administration of the country and compliance with the requirements of the victorious Powers.

It is in these circumstances necessary, without prejudice to any subsequent decisions that may be taken respecting Germany, to make provision for the cessation of any further hostilities on the part of the German armed forces, for the maintenance of order in Germany and for the administration of the country, and to announce the immediate requirements with which Germany must comply.

The representatives of the Supreme Commands of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom and the French Republic, hereinafter called the "Allied Representatives," acting by authority of their respective Governments and in the interests of the United Nations, accordingly make the following Declaration:

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, hereby assume supreme authority with respect to Germany, including all the powers possessed by the German Government, the High Command and any state, municipal or local government, or authority. The assumption, for the purposes stated above, of the said authority and powers does not effect the annexation of Germany.

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, will hereafter determine the boundaries of Germany or any part thereof and the status of Germany or of any area at present being part of German territory.

In virtue of the supreme authority and powers thus assumed by the four governments, the Allied representatives announce the following requirements arising from the complete defeat and unconditional surrender of Germany with which Germany must comply:

¹The Declaration was signed in Berlin by General Eisenhower, Marshal Zhukov, Field Marshal Montgomery, General De Lattre de Tassigny. Department of State, *Bulletin*, Vol. XII (1945), pp. 1051-1055.

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ARTICLE 1

Germany, and all German military, naval and air authorities and all forces under German control shall immediately cease hostilities in all theatres of war against the forces of the United Nations on land, at sea and in the air.

ARTICLE 2

(A) All armed forces of Germany or under German control, wherever they may be situated, including land, air, anti-aircraft and naval forces, the SS, SA and Gestapo, and all other forces or auxiliary organizations equipped with weapons, shall be completely disarmed, handing over their weapons and equipment to local Allied commanders or to officers designated by the Allied Representatives.

(B) The personnel of the formations and units of all forces referred to in paragraph (A) above shall, at the discretion of the Commander-in-Chief of the armed forces of the Allied state concerned, be declared to be prisoners of war, pending further decisions, and shall be subject to such conditions and directions as may be prescribed by the respective Allied Representatives.

(C) All forces referred to in paragraph (A) above, wherever they may be, will remain in their present positions pending instructions from the Allied Representatives.

(D) Evacuation by the said forces of all territories outside the frontiers of Germany as they existed on Dec. 31, 1937, will proceed according to instructions to be given by the Allied representatives.

(E) Detachments of civil police to be armed with small arms only, for the maintenance of order and for guard duties, will be designated by the Allied Representatives.

ARTICLE 3

(A) All aircraft of any kind or nationality in Germany or German-occupied or controlled territories or waters, military, naval or civil, other than aircraft in the service of the Allies, will remain on the ground, on the water or aboard ships pending further instructions.

(B) All German or German-controlled aircraft in or over territories or waters not occupied or controlled by Germany will proceed to Germany or to such other place or places as may be specified by the Allied Representatives.

ARTICLE 4

(A) All German or German-controlled naval vessels, surface and submarine, auxiliary naval craft, and merchant and other shipping, wherever such vessels may be at the time of this declaration, and all other merchant ships of whatever nationality in German ports, will remain in or proceed immediately to ports and bases as specified by the Allied Representatives. The crews of such vessels will remain on board pending further instructions.

(B) All ships and vessels of the United Nations, whether or not title has been transferred as the result of prize court or other proceedings, which are at the disposal of Germany or under German control at the time of this declaration, will proceed at the dates and to the ports or bases specified by the Allied Representatives.

ARTICLE 5

(A) All or any of the following articles in the possession of the German armed forces or under German control or at German disposal will be held intact

and in good condition at the disposal of the Allied representatives, for such purposes and at such times and places as they may prescribe:

I. All arms, ammunition, explosives, military equipment, stores and supplies and other implements of war of all kinds and all other war material;

II. All naval vessels of all classes, both surface and submarine, auxiliary naval craft and all merchant shipping, whether afloat, under repair or construction, built or building;

III. All aircraft of all kinds, aviation and anti-aircraft equipment and devices;

IV. All transportation and communications facilities and equipment, by land, water or air;

V. All military installations and establishments, including airfields, seaplane bases, ports and naval bases, storage depots, permanent and temporary land and coast fortifications, fortresses and other fortified areas, together with plans and drawings of all such fortifications, installations and establishments;

VI. All factories, plants, shops, research institutions, laboratories, testing stations, technical data, patents, plans, drawings and inventions, designed or intended to produce or to facilitate the production or use of the articles, materials, and facilities referred to in sub-paragraphs I, II, III, IV and V above or otherwise to further the conduct of war.

(B) At the demand of the Allied Representatives the following will be furnished.

I. The labor, services and plant required for the maintenance or operation of any of the six categories mentioned in paragraph (A) above; and

II. Any information or records that may be required by the Allied representatives in connection with the same.

(C) At the demand of the Allied Representatives all facilities will be provided for the movement of Allied troops and agencies, their equipment and supplies, on the railways, roads and other land communications or by sea, river or air. All means of transportation will be maintained in good order and repair, and the labor, services and plant necessary therefor will be furnished.

ARTICLE 6

(A) The German authorities will release to the Allied Representatives, in accordance with the procedure to be laid down by them, all prisoners of war at present in their power, belonging to the forces of the United Nations, and will furnish full lists of these persons, indicating the places of their detention in Germany or territory occupied by Germany. Pending the release of such prisoners of war, the German authorities and people will protect them in their persons and property and provide them with adequate food, clothing, shelter, medical attention, and money in accordance with their rank or official position.

(B) The German authorities and people will in like manner provide for and release all other nationals of the United Nations who are confined, interned or otherwise under restraint, and all other persons who may be confined, interned or otherwise under restraint for political reasons or as a result of any Nazi action, law or regulation which discriminates on the ground of race, color, creed or political belief.

(C) The German authorities will, at the demand of the Allied Representatives, hand over control of places of detention to such officers as may be designated for the purpose by the Allied Representatives.

ARTICLE 7

The German authorities concerned will furnish to the Allied Representatives:

(A) Full information regarding the forces referred to in Article 2 (A), and in particular, will furnish forthwith all information which the Allied representatives may require concerning the numbers, locations and dispositions of such forces, whether located inside or outside Germany;

(B) Complete and detailed information concerning mines, minefields and other obstacles to movement by land, sea or air, and the safety lanes in connection therewith. All such safety lanes will be kept open and clearly marked; all mines, minefields and other dangerous obstacles will as far as possible be rendered safe, and all aids to navigation will be reinstated. Unarmed German military and civilian personnel with the necessary equipment will be made available and utilized for the above purpose and for the removal of mines, minefields and other obstacles as directed by the Allied Representatives.

ARTICLE 8

There shall be no destruction, removal, concealment, transfer or scuttling of, or damage to, any military, naval, air, shipping, port, industrial and other like property and facilities and all records and archives, wherever they may be situated, except as may be directed by the Allied Representatives.

ARTICLE 9

Pending the institution of control by the Allied Representatives over all means of communication, all radio and telecommunication installations and other forms of wire or wireless communications, whether ashore or afloat, under German control, will cease transmission except as directed by the Allied Representatives.

ARTICLE 10

The forces, nationals, ships, aircraft, military equipment and other property in Germany or in German control or service or at German disposal, of any other country at war with any of the Allies, will be subject to the provisions of this declaration and of any proclamations, orders, ordinances or instructions issued thereunder.

ARTICLE 11

(A) The principal Nazi leaders as specified by the Allied Representatives, and all persons from time to time named or designated by rank, office or employment by the Allied Representatives as being suspected of having committed, ordered or abetted war crimes or analogous offenses, will be apprehended and surrendered to the Allied Representatives.

(C) The German authorities and people will comply with any instructions given by the Allied Representatives for the apprehension and surrender of such persons.

ARTICLE 12

The Allied Representatives will station forces and civil agencies in any or all parts of Germany as they may determine.

ARTICLE 13

(A) In the exercise of the supreme authority with respect to Germany assumed by the Government of the United States of America, the Union of

Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, the four Allied Governments will take such steps, including the complete disarmament and demilitarization of Germany, as they deem requisite for future peace and security.

(B) The Allied Representatives will impose on Germany additional political, administrative, economic, financial, military and other requirements arising from the complete defeat of Germany. The Allied Representatives, or persons or agencies duly designated to act on their authority, will issue proclamations, orders, ordinances and instructions for the purpose of laying down such additional requirements, and of giving effect to the other provisions of this declaration. All German authorities and the German people shall carry out unconditionally the requirements of the Allied Representatives, and shall fully comply with all such proclamations, orders, ordinances and instructions.

ARTICLE 14

This declaration enters into force and effect at the date and hour set forth below. In the event of failure on the part of the German authorities or people promptly and completely to fulfill their obligations hereby or hereafter imposed, the Allied Representatives will take whatever action may be deemed by them to be appropriate under the circumstances.

ARTICLE 15

This declaration is drawn up in English, Russian, French and German languages. The English, Russian and French are the only authentic texts.

Berlin, June 5, 1945.

XI

AMERICAN DIRECTIVE ON THE MILITARY GOVERNMENT OF AUSTRIA

June 27, 1945¹

1. *The Purpose and Scope of this Directive:*

a. This directive is issued to you as Commanding General of the United States forces of occupation in Austria. As such you will serve as United States member of the Allied Council of the Allied Commission for Austria and will also be responsible for the administration of military government in the zone or zones assigned to the United States for purposes of occupation and administration. It outlines the basic policies which will guide you in those two capacities after the termination of the combined command in Austria. Supplemental directives will be issued to you by the Joint Chiefs of Staff as may be required.

b. As a member of the Allied Council you will urge the adoption by the other occupying powers of the principles and policies set forth in this directive and, pending Allied Council agreement, you will follow them in your zone. It is anticipated that substantially similar directives will be issued to the Commanders in Chief of the United Kingdom, the Union of Soviet Socialist Republics, and French forces of occupation.

c. In the event that recognition is given by the four governments to a pro-

¹The Directive was prepared by the State-War-Navy Coordinating Committee and transmitted to General Mark Clark by the Joint Chiefs of Staff on June 27, 1945. It was made public by the State Department on October 28, 1945. Department of State, *Bulletin*, Vol. XIII (1945), pp. 661-673.

ARTICLE 7

The German authorities concerned will furnish to the Allied Representatives:

(A) Full information regarding the forces referred to in Article 2 (A), and in particular, will furnish forthwith all information which the Allied representatives may require concerning the numbers, locations and dispositions of such forces, whether located inside or outside Germany;

(B) Complete and detailed information concerning mines, minefields and other obstacles to movement by land, sea or air, and the safety lanes in connection therewith. All such safety lanes will be kept open and clearly marked; all mines, minefields and other dangerous obstacles will as far as possible be rendered safe, and all aids to navigation will be reinstated. Unarmed German military and civilian personnel with the necessary equipment will be made available and utilized for the above purpose and for the removal of mines, minefields and other obstacles as directed by the Allied Representatives.

ARTICLE 8

There shall be no destruction, removal, concealment, transfer or scuttling of, or damage to, any military, naval, air, shipping, port, industrial and other like property and facilities and all records and archives, wherever they may be situated, except as may be directed by the Allied Representatives.

ARTICLE 9

Pending the institution of control by the Allied Representatives over all means of communication, all radio and telecommunication installations and other forms of wire or wireless communications, whether ashore or afloat, under German control, will cease transmission except as directed by the Allied Representatives.

ARTICLE 10

The forces, nationals, ships, aircraft, military equipment and other property in Germany or in German control or service or at German disposal, of any other country at war with any of the Allies, will be subject to the provisions of this declaration and of any proclamations, orders, ordinances or instructions issued thereunder.

ARTICLE 11

(A) The principal Nazi leaders as specified by the Allied Representatives, and all persons from time to time named or designated by rank, office or employment by the Allied Representatives as being suspected of having committed, ordered or abetted war crimes or analogous offenses, will be apprehended and surrendered to the Allied Representatives.

(C) The German authorities and people will comply with any instructions given by the Allied Representatives for the apprehension and surrender of such persons.

ARTICLE 12

The Allied Representatives will station forces and civil agencies in any or all parts of Germany as they may determine.

ARTICLE 13

(A) In the exercise of the supreme authority with respect to Germany assumed by the Government of the United States of America, the Union of

Source: Holborn 147

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Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, the four Allied Governments will take such steps, including the complete disarmament and demilitarization of Germany, as they deem requisite for future peace and security.

(B) The Allied Representatives will impose on Germany additional political, administrative, economic, financial, military and other requirements arising from the complete defeat of Germany. The Allied Representatives, or persons or agencies duly designated to act on their authority, will issue proclamations, orders, ordinances and instructions for the purpose of laying down such additional requirements, and of giving effect to the other provisions of this declaration. All German authorities and the German people shall carry out unconditionally the requirements of the Allied Representatives, and shall fully comply with all such proclamations, orders, ordinances and instructions.

ARTICLE 14

This declaration enters into force and effect at the date and hour set forth below. In the event of failure on the part of the German authorities or people promptly and completely to fulfill their obligations hereby or hereafter imposed, the Allied Representatives will take whatever action may be deemed by them to be appropriate under the circumstances.

ARTICLE 15

This declaration is drawn up in English, Russian, French and German languages. The English, Russian and French are the only authentic texts.

Berlin, June 5, 1945.

XI

AMERICAN DIRECTIVE ON THE MILITARY GOVERNMENT OF AUSTRIA

June 27, 1945¹

1. *The Purpose and Scope of this Directive:*

a. This directive is issued to you as Commanding General of the United States forces of occupation in Austria. As such you will serve as United States member of the Allied Council of the Allied Commission for Austria and will also be responsible for the administration of military government in the zone or zones assigned to the United States for purposes of occupation and administration. It outlines the basic policies which will guide you in those two capacities after the termination of the combined command in Austria. Supplemental directives will be issued to you by the Joint Chiefs of Staff as may be required.

b. As a member of the Allied Council you will urge the adoption by the other occupying powers of the principles and policies set forth in this directive and, pending Allied Council agreement, you will follow them in your zone. It is anticipated that substantially similar directives will be issued to the Commanders in Chief of the United Kingdom, the Union of Soviet Socialist Republics, and French forces of occupation.

c. In the event that recognition is given by the four governments to a pro-

¹The Directive was prepared by the State-War-Navy Coordinating Committee and transmitted to General Mark Clark by the Joint Chiefs of Staff on June 27, 1945. It was made public by the State Department on October 28, 1945. Department of State, *Bulletin*, Vol. XIII (1945), pp. 661-673.

visional national government of Austria, such government should be delegated authority in appropriate matters to conduct public affairs in accordance with the principles set forth in this directive or agreed upon by the occupying powers. Such delegation, however, shall be subject to the authority of the occupying powers and to their responsibility to see that their policies are in fact carried out.

d. Any provisional national government of Austria which is not recognized by all of the four Governments of the occupying powers shall not be treated by you as possessing any authority. Only individuals who recognize your supreme authority in your zone will be utilized by you in administration.

PART I GENERAL AND POLITICAL

2. *The Basis of Military Government:*

a. The rights, power and status of the military government in Austria prior to the unconditional surrender and total defeat of Germany, were based upon the military occupation of Austria and the decision of the occupying powers to reestablish an independent Austrian state. Thereafter the rights, powers and status are based, in addition, upon such surrender or defeat. The Text of the Instrument of Unconditional Surrender of Germany published as a separate document has been made available to you.² You will assure that the policies set forth in that Instrument are carried out in your zone of occupation insofar as they are applicable in Austria even though the defeat of Germany is not followed by a formal signing of the Instrument.

b. Subject to the provisions of paragraph 3 below, you are, by virtue of your position, clothed with supreme legislative, executive, and judicial authority in the areas occupied by forces under your command. This authority will be broadly construed and includes authority to take all measures deemed by you necessary, appropriate or desirable in relation to military exigencies and the objectives set forth in this and other directives.

c. You will issue a proclamation continuing in force such proclamations, orders and instructions as may have heretofore been issued by Allied Commanders in your zone, subject to such changes as you may determine. Authorizations of action by the Supreme Allied Commander, Mediterranean, or by the Supreme Commander, Allied Expeditionary Force, may be considered as applicable to you unless inconsistent with this or other directives.

3. *The Allied Council and Zones of Occupation:*

a. The four Commanders in Chief, acting jointly, will constitute the Allied Council which will exercise supreme authority in Austria. The United States proposal for an agreement on the organization of the Control Machinery in Austria published as a separate document has been made available to you. When approved by the occupying powers, the text of the agreement on Control Machinery in Austria will be furnished you. For purposes of administration of military government, Austria will be divided into four zones of occupation. When the occupying powers have agreed upon the zones of occupation in Austria, the text of the protocol in that regard will be furnished you.

b. The authority of the Allied Council to formulate policy and procedures and administrative relationships with respect to matters affecting Austria as a

whole will be paramount throughout Austria. This authority shall be broadly construed to the end that, through maximum uniformity of policy and procedures throughout Austria, the establishment of an independent Austrian Government may be accelerated. In your capacity as a member of the Allied Council, you will seek maximum agreement with respect to policy and maximum uniformity of action by the Commanders-in-Chief in their respective zones of occupation. You will carry out and support in your zone the policies agreed upon in the Allied Council. In the absence of such agreed policies you will act in accordance with this and other directives of the Joint Chiefs of Staff.

c. The Allied Council should cooperate with the Control Council in Germany in effecting the severance of all political and administrative connections between Austria and Germany, and the elimination of German economic and financial influences in Austria. You will in every way possible assist the accomplishment of this purpose.

d. The Allied Council should adopt procedures to effectuate, and you will facilitate in your zone, the equitable distribution of essential commodities between the zones. In the absence of a conflicting policy of the Allied Council, you may deal directly with one or more zone commanders on matters of special concern to such zones.

e. Pending the formulation in the Allied Council of uniform policies and procedures with respect to travel and movement of persons to and from Austria, no persons shall be permitted to cross the Austrian frontier in your zone except for specific purposes approved by you.

f. The military government personnel in your zone, including those dealing with regional and local branches of the departments of any central Austrian administrative machinery, shall be selected by your authority except that liaison officers may be furnished by the Commanders of the other three zones. The respective Commanders-in-Chief shall have exclusive jurisdiction throughout the whole of Austria over the members of the armed forces under their command and over the civilians who accompany them.

4. *Basic Objectives of Military Government in Austria:*

a. You will be chiefly concerned in the initial stages of military government with the elimination of German domination and Nazi influences. Consistently with this purpose, you will be guided at every step by the necessity to ensure the reconstruction of Austria as a free, independent and democratic state. It will be essential therefore that every measure be undertaken from the early stages of occupation with this objective in mind.

b. The Allied Council should, as soon as it is established, proclaim the complete political and administrative separation of Austria from Germany, and the intention of the occupying powers to pave the way for the reestablishment of Austria as an independent democratic state. You will make it clear to the Austrian people that military occupation of Austria is intended principally (1) to aid Allied military operations and the strict enforcement of the applicable provisions of the German unconditional surrender instrument in Austria; (2) to eliminate Nazism, Pan-Germanism, militarism, and other forces opposed to the democratic reconstitution of Austria; (3) to cooperate with the Control Council for Germany in the application and enforcement of measures designed to prevent the recurrence of German aggression; (4) to establish Allied Control over the use and disposition of German property in Austria.

²Appendix IX.

(5) to effect the complete political and administrative separation of Austria from Germany and free Austria from Nazi and German economic and financial influences; (6) to facilitate the development of a sound Austrian economy devoted to peaceful pursuits and not vitally dependent upon German supplies, markets and technical and financial assistance; and (7) to foster the restoration of local self-government and the establishment of an Austrian central government freely elected by the Austrian people themselves. Other objectives of the occupation will be to apprehend war criminals, to care for and repatriate displaced persons and prisoners-of-war who are members of the armed forces of the United Nations, and to carry out approved programs of reparation and restitution insofar as these are applicable to Austria.

c. You will assure that there is no fraternization by your troops with any German elements remaining in Austria. While in the initial period of occupation the relationship of the troops to the Austrian civil population will be distant and aloof but courteous, a progressively more friendly relationship may be permitted as experience justifies.

5. Denazification:

a. A Proclamation dissolving the Nazi Party, its formations, affiliated associations and supervised organizations, and all Nazi public institutions which were set up as instruments of Party domination, and prohibiting their revival in any form, should be promulgated by the Allied Council. You will assure the prompt effectuation of that policy in your zone and will make every effort to prevent the reconstitution of any such organization in underground, disguised or secret form. Responsibility for continuing desirable non-political social services of dissolved Party Organizations may be transferred by the Governing Body to appropriate central agencies and by you to appropriate local agencies.

b. All laws which extended the political structure of National Socialism to Austria or otherwise brought about the destruction of the Austrian state or which established discriminations on grounds of race, nationality, creed, or political opinion should be abrogated by the Allied Council. You will render them inoperative in your zone.

c. All members of the Nazi Party who were German nationals prior to March 13, 1938, Germans who entered Austria after that date, and other Germans directly connected with the Nazi exploitation of Austria will immediately be removed from government positions and all other categories of employment listed below, and will be expelled from Austria in accordance with paragraph 21. All Austrian members of the Nazi Party who have been more than nominal participants in its activities, all active supporters of Nazism and other persons hostile to Allied purposes will be removed and excluded from public office and from positions of importance in quasi-public and private enterprises such as (1) civic, economic, and labor organizations, (2) corporations and other organizations in which the German Government or subdivisions have a major financial interest, (3) industry, commerce, agriculture, and finance, (4) education, and (5) the press, publishing houses and other agencies disseminating news and propaganda. Persons are to be treated as more than nominal participants in Party activities and as active supporters of Nazism when they (1) held office or otherwise were active at any level from local to national in the Party and its subordinate organizations, (2) authorized or participated affirmatively in any Nazi crimes, racial persecutions or discriminations, (3) been

avowed believers in Nazi doctrines, or (4) voluntarily given substantial moral or material support or political assistance of any kind to the Nazi Party or Nazi officials and leaders. No such persons shall be retained in any of the categories of employment listed above because of administrative necessity, convenience or expediency.

d. Property, real and personal, owned or controlled by the Nazi Party, its formations, affiliated associations and supervised organizations, and by all persons subject to arrest under the provisions of paragraph 7 below, and found within your zone will be taken under your control pending a decision by the Allied Council or higher authority as to its eventual disposition.

e. All archives, monuments and museums of Nazi inception, or which are devoted to the perpetuation of militarism, will be taken under your control and their properties held pending decision as to their disposition by the Allied Council.

f. You will make special efforts to preserve from destruction and take under your control records, plans, books, documents, papers, files, and scientific, industrial and other information and data belonging to or controlled by the following:

(1) The central German Government and its subdivisions, the offices of the Reichsstatthalter, the former Austrian state and its subdivisions, German and Austrian military organizations, organizations engaged in military research, and such other governmental agencies as may be deemed advisable;

(2) The Nazi Party, its formations, affiliated associations and supervised organizations;

(3) All police organizations, including security and political police;

(4) Important economic organizations and industrial establishments including those controlled by the Nazi Party or its personnel;

(5) Institutes and special bureaus devoting themselves to racial, political, militaristic or similar research or propaganda.

6. Elimination of pre-Nazi Influences:

a. You will remove and exclude from the positions enumerated in subparagraph 5 c above all persons who took an active and prominent part in the undemocratic measures of the pre-Nazi Fascist regime or in any of its paramilitary organizations such as the *Heimwehr* and the *Ostmaerkische Sturm-scharen*.

b. You will prevent the revival of any organization seeking to restore the pre-Nazi Fascist regime.

7. Suspected War Criminals and Security Arrests:

a. You will search out, arrest, and hold, pending receipt by you of further instructions as to their disposition, Adolf Hitler, his chief Nazi associates, other war criminals, and all persons who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes.

b. All persons who if permitted to remain at large would endanger the accomplishment of your objectives will also be arrested and held in custody until their disposition is otherwise determined by an appropriate semi-judicial body to be established by you.

[Note: There follows at this point in the directive a detailed list of categories of Nazi war criminals and others who are to be arrested. Some of these

have not yet been found. It is considered that to publish the categories at this time would put the individuals concerned on notice and would interfere with their apprehension and punishment, where appropriate. The list of categories is, therefore, withheld from publication for the present.]

If in the light of conditions which you encounter in Austria you believe it is not immediately feasible to subject certain persons within these categories to this treatment, you should report your reasons and recommendations to your Government through the Joint Chiefs of Staff. If you believe it desirable, you may postpone the arrest of those whose cases you have reported, pending a decision communicated to you by the Joint Chiefs of Staff. In no event shall any differentiation be made between or special consideration be accorded to persons arrested, either as to manner of arrest, or conditions of detention, upon the basis of wealth or political, industrial, or other rank or position. In your discretion you may make such exception as you deem advisable for intelligence or other military reasons.

8. Demilitarization:

a. In your zone you will assure that all units of the German armed forces including para-military organizations are dissolved as such and that their personnel are promptly disarmed and controlled in accordance with the policies and procedures set forth in the Instrument of Unconditional Surrender of Germany or in other directives which may be issued to you. Prior to their final disposition you will arrest and hold all military personnel who are included under the provisions of paragraph 7. Subject to military considerations and priority to be accorded repatriation of United Nations nationals, the Allied Council should cooperate with the Control Council for Germany in arranging the early repatriation or other disposition of German members of the German armed forces, including para-military organizations, found within Austria. The two Allied agencies should likewise concert the prompt return to Austria of Austrian members of the German armed forces found within Germany, except those held as active Nazis, suspected war criminals, or for other reasons.

b. The Allied Council should proclaim, and in your zone you will effectuate, the total dissolution of all military and para-military organizations together with all associations which might serve to keep alive militarism in Austria.

c. All persons who have actively supported organizations promoting militarism or who have been active proponents of militaristic doctrines will be removed and excluded from any of the categories of employment listed in subparagraph 5 c.

d. You will seize or destroy all arms, ammunition and implements of war, including all aircraft, military and civil, and stop the production thereof.

9. Police:

With the exception of the *Kriminalpolizei* (Criminal Police), all elements of the *Sicherheitspolizei* (Security Police), e.g., *Geheime Staatspolizei* (Gestapo), and the *Sicherheitsdienst der S.S.* will be abolished. Criminal and ordinary police will be purged of Nazi personnel and utilized under the control and supervision of the military government.

10. Administration of Justice:

a. All extraordinary courts, including the *Volksgerichtshof* (People's Court) and the *Sondergerichte* (Special Courts), and all courts and tribunals of the

Nazi Party and of its formations, affiliated associations and supervised organizations will be abolished immediately.

b. All ordinary criminal, civil and administrative courts, except those previously re-established by Allied authority, will be closed. After the elimination of all Nazi or other objectionable features and personnel you will permit those which are to exercise jurisdiction within the boundaries of your zone to resume operations under such regulations, supervision and control as you may consider appropriate. Courts which are to exercise jurisdiction over territory extending beyond the boundaries of your zone will be reopened only with the express authorization of the Allied Council and under its regulation, supervision and control. The power to review and veto decisions of German and Austrian courts shall be included within the power of supervision and control.

11. Political Prisoners:

Subject to military security and to the interests of the individuals concerned, you will release all persons found within your zone who have been detained or placed in custody on grounds of race, nationality, creed or political opinion and treat them as displaced persons. You should make provision for the review of convictions of alleged criminal offenses about which there may be substantial suspicion of racial, religious or political persecution, and in which sentences of imprisonment have not been fully served by persons imprisoned within your zone.

12. Reconstitution of an Administrative System:

a. As soon as Nazi and Fascist influences have been eliminated from public offices in Austria, the reconstitution of Austrian administrative agencies shall be carried out in such a way as not to prejudice the political and constitutional future of Austria. The Allied Council should be responsible for the early establishment of such nation-wide administrative and judicial machinery as may be required to facilitate the uniform execution of its policy throughout Austria, to ensure freedom of transit and communication to and between the separate zones of occupation, and to lay the foundation for the restoration of an Austrian national administrative system. Administrative officials with powers extending throughout Austria should be appointed only by or under the authority of the Allied Council.

b. The formal abrogation of the Anschluss (Act of March 13, 1938) will not be considered as reestablishing the legal and constitutional system of Austria as it existed prior to that event. Such portions of earlier Austrian legislation or of Reich legislation relating to Austria may be retained or restored to force as is deemed appropriate for the purposes of military government and the reconstitution of Austria on a democratic basis. Insofar as it may prove desirable to utilize constitutional laws for Austrian administration, suitable provisions of the Austrian Constitution of 1920, as amended in 1925 and 1929, should be applied.

c. You will assure the severance of all connections between regional (Gau) and local agencies on the one hand and Reich administrative agencies on the other, and will reconstitute Austrian Provincial (Land) and local administration at the earliest possible moment. You may utilize such agencies of the present regional and local administrations as may be deemed useful.

13. Restoration of Regional and Local Self-Government:

As a member of the Allied Council, you will urge the restoration of regional and local self-government throughout Austria at the earliest possible moment. In the absence of agreement, you will facilitate the holding of elections to local and regional public offices within your zone. If prior to or during occupation, local and regional popular councils or similar organs appear, they may be granted temporary recognition pending approval by the Allied Council and be utilized in administration in the event that they possess popular support and are free from Nazi or Fascist sympathizers and affiliations.

14. Establishment of Independent Austrian Government:

The Allied Council should, and in your zone you will, make it clear to the Austrian people that the Allied Powers do not intend through military government to appoint or establish a national government for Austria but will aid the Austrian people themselves to prepare for the election of a national assembly by democratic means. The Austrian people will be free to determine their own form of government provided the new regime be democratic in character and assume appropriate internal and international responsibilities and obligations.

15. Political Activity and Civil Rights:

a. At the earliest possible moment you will permit such political activity and organization by democratic groups as neither threatens military security nor presents substantial danger of public disorder nor engender suspicion and disunity among the United Nations.

b. You will prohibit the propagation in any form of Nazi, Fascist, militaristic, and pan-German doctrines.

c. To the extent that military interests are not prejudiced and subject to the provisions of the two preceding subparagraphs and paragraph 16, you will permit freedom of speech, assembly, press, association, and religious worship.

d. For purposes of military government you may consider as Austrian citizens all persons who held Austrian citizenship on or before March 13, 1938, or who would have automatically acquired citizenship by operation of the law of Austria in force on March 13, 1938. The acts of July 30, 1925 and August 16, 1933 should not be considered as depriving of citizenship Austrians who have entered the service of foreign states or who have taken up arms against the Reich since 1938. German laws purporting to affect Austrian citizenship should be ignored.

16. Public Relations and Control of Public Information:

As a member of the Allied Council you will endeavor to obtain agreement for uniform or coordinated policies with respect to (a) control of public information media in Austria, (b) accrediting of foreign correspondents, (c) press censorship, and (d) issuance of official news communiques dealing with matters within the jurisdiction of the Allied Council. United States policies in these matters will be sent to you separately and you will be guided by these in your negotiations in the Allied Council.

17. Education:

a. You will initially close all schools and universities except those previously re-established by Allied authority. The closure of Nazi educational institutions,

such as Adolf Hitler Schulen, Napolas and Ordensburgen, and of Nazi organizations within other educational institutions, will be permanent.

b. A coordinated system of control over Austrian education and an affirmative program of reorientation will be established designed completely to eliminate Nazi, Fascist and militaristic doctrines and to encourage the development of democratic ideas.

c. You will permit the reopening of elementary (Volksschulen), middle (Hauptschulen), and vocational (Berufsschulen) schools at the earliest possible date after Nazi and other objectionable personnel has been eliminated. Textbooks and curricula which are not free of Nazi, Fascist and militaristic doctrines shall not be used. The Allied Council should assure that programs are devised for the early reopening of secondary schools, universities and other institutions of higher learning. After Nazi and other objectionable personnel and features have been eliminated and pending the formulation of such programs by the Allied Council, you may formulate and put into effect an interim program within your zone and, in any case, you will encourage the reopening of such institutions and departments which offer training which you consider immediately essential or useful in the administration of military government and the purposes of the occupation.

d. It is not intended that the military government will intervene in questions concerning denominational control of Austrian schools, or in religious instruction in Austrian schools, except in so far as may be necessary to ensure that religious instruction and administration of such schools conform to such Allied regulations as are or may be established pertaining to purging of personnel and curricula.

18. Religious Affairs:

a. The Allied Council should leave to the Austrian churchmen of the respective faiths the revision of the constitutions, rituals or internal relationships of purely ecclesiastical bodies.

b. You will protect freedom of religious belief and worship.

c. You will refrain from intervening in matters concerning religious instruction in schools, the establishment or continuation of denominational schools and the re-establishment of ecclesiastical control of any publicly supported schools.

d. You will take necessary measures to protect churches, shrines, church schools, and other ecclesiastical property from damage and from any treatment which lacks respect for their religious character.

e. You may permit religious bodies to conduct appropriate youth, sport, and welfare activities and to receive contributions for such purposes.

f. Subject to the provisions of paragraph 15, you will permit the establishment or revival of religious periodicals and the publication of other religious literature.

19. Treatment of Displaced Persons and Refugees in Austria:

a. Subject to any international agreements and to the agreed policies of the Allied Council, you will undertake the repatriation, return to former residence or resettlement of displaced persons who are (1) nationals of the United Nations and of neutral states, (2) stateless persons, (3) nationals of enemy or former enemy countries who have been persecuted by the enemy for reasons of

race, nationality, creed or political opinion, (4) nationals of Italy, as rapidly as military considerations and arrangements with their respective governments permit. Due consideration will be given to the wishes of the individuals involved, and preference will be accorded to nationals of the United Nations and persons freed from concentration camps or other places of detention.

b. You will establish or maintain centers for the assembly and repatriation, resettlement or return of the foregoing displaced persons. Subject to the general control and responsibility of military government, existing Austrian agencies will be required to maintain essential supply and other services for them, including adequate food, shelter, clothing and medical care.

c. Subject to your general control, you will hold existing Austrian agencies responsible for the care and disposition of refugees and those displaced persons who are nationals of Germany or former enemy countries not otherwise provided herein. You will facilitate their repatriation or return, subject to whatever control you may deem necessary, as rapidly as military considerations and appropriate arrangements with authorities in their respective home countries permit.

d. Subject to agreed policies of the Allied Council, you will determine the extent to which UNRRA, the Inter-Governmental Committee on Refugees, or other civilian agencies will participate in handling displaced persons and refugees.

e. You will accord liaison on matters connected with displaced persons to representatives of each of the other Occupying Powers accredited therefor by their respective Commander-in-Chief and to representatives of any of the United Nations and neutral states and of Italy accredited therefor by the Allied Council or other competent authority. You will arrange for such representatives to have access to displaced persons who are nationals of their countries and are authorized to permit them to use the facilities of their governments for purposes of repatriation.

f. The term "displaced persons" includes (1) non-Austrian civilian nationals who have been obliged to leave their own countries or to remain in Austria by reason of the war, (2) stateless persons, and (3) persons who have been persecuted by the enemy for reasons of race, nationality, creed or political opinion. The term "refugees" includes Austrian civilian nationals within Austria who are temporarily homeless because of military operations, or are residing at some distance from their homes for reasons related to the war.

20. *Return of Austrian Civilians to Austria:*

In accordance with military considerations and appropriate arrangements with authorities in sending countries, you will cooperate in rapid repatriation of Austrian civilian nationals outside Austria, exclusive of active Nazis and persons suspected of having committed war crimes or held for other reasons.

21. *The Removal of German Officials and Civilians from Austria:*

a. All German officials, members of the Nazi Party who were German nationals prior to March 13, 1938, Germans who entered Austria after that date and other Germans directly connected with the Nazi exploitation of Austria, except those whom it may be desirable to hold for security or other reasons, should be expelled from Austria. The Allied Council should consult with the Control Council in Germany regarding the removal to Germany of such per-

sons. Removal will be effected at the earliest time consistent with the availability of transport facilities and with the prospect of orderly absorption into Germany.

b. Subject to instructions issued by the Allied Council in accordance with the provisions of the subparagraph a above, you will in your zone take all practicable measures to facilitate and expedite the removal to Germany of all German officials and of German citizens to be repatriated.

22. *Diplomatic and Consular Officials and Properties:*

All diplomatic and consular officials of countries with which any one of the United Nations has been at war since December 31, 1937 will be taken into protective custody and held for further disposition. The diplomatic and consular property and records belonging to such countries or governments and to their official personnel will be seized and secured if not found in the custody of a protecting power.

23. *Arts and Archives:*

Subject to the provisions of paragraph 5 above, you will make all reasonable efforts to preserve historical archives, museums, libraries and works of art.

PART II ECONOMIC

General Economic Provisions

24. The Allied Council should ensure the direction of the Austrian economy in such a way as to carry out the objectives set forth in paragraph 4 b of this directive and should establish centralized control and administration of the Austrian economy to the extent necessary to achieve the maximum utilization of Austrian resources and equitable distribution of essential goods and services and to obtain uniformity of policies and operations throughout Austria.

You will urge the establishment of such centralized control and administration and, pending agreement in the Allied Council, you will take such measures in your own zone as are necessary to carry out the provisions of this directive.

25. To the maximum extent possible without jeopardizing the successful execution of measures required to implement the objectives outlined in paragraph 4 b of this directive, Austrian authorities and agencies should be used, subject to such supervision as is necessary to ensure that they carry out their task. For this purpose appropriate authority should be given to Austrian agencies and administrative services, subject to strict observance of the provisions of this directive regarding denazification and dissolution or prohibition of Nazi and Fascist organizations, institutions, principles, features and practices.

26. You will preserve all significant records pertaining to important economic, financial and research organizations and activities. You will institute or assure the maintenance of such statistical records and reports as may be necessary to carry out the objectives of this directive.

27. You will initiate appropriate surveys which may assist you in achieving the objectives of the occupation. In particular, you will promptly undertake surveys, equipment and resources in your zone. You will endeavor to obtain prompt agreement in the Allied Council to similar surveys in the other zones of occupation and urge appropriate steps to coordinate the methods and results

of these and other future surveys undertaken in the various zones. You will keep the Allied Council and your government currently apprised of the information obtained by means of intermediate reports or otherwise.

Responsibility for Supplies from U.S. Military Sources

28. Imports of supplies from U.S. Military supply sources, for which you will assume responsibility, will be limited to the basic essentials necessary in your zone (a) to avoid disease and unrest which might endanger the occupying forces and (b) for the care of displaced persons. Imports will be undertaken only after maximum utilization of indigenous supplies.

Agriculture, Industry and Internal Commerce

29. You will make maximum use of supplies and resources available within Austria and you will require the Austrians to use all means at their disposal to maximize the production of foodstuffs and other essential goods and to establish as rapidly as possible effective rationing and other machinery for the distribution thereof. You will urge upon the Allied Council that uniform ration scales be applied throughout Austria.

30. The Allied Council should assure to the maximum possible extent the free movement and equitable distribution of goods and services throughout Austria.

31. The Allied Council should facilitate emergency repair and construction for the minimum housing needs of the civil population and restoration of transportation and communications services and public utilities essential to the objectives outlined in paragraph 4 b.

32. In order to supplement the measures taken by the Control Council in Germany for the industrial disarmament of Germany and pending final decision as to the steps necessary in Austria to eliminate Germany's war potential, you should, in cooperation with the other zone commanders, take steps to

a. prevent the production, acquisition and development of all arms, ammunition and implements of war, including all types of aircraft, and all parts, components and ingredients specially designed or produced for incorporation therein;

b. seize and safeguard, pending instructions as to disposal, all facilities which are specially designed or adapted to the production of the items mentioned in a and cannot be converted to non-military production, using in such conversion only materials and equipment readily available and not emanating from Germany;

c. take an inventory of all German-owned plant and equipment in Austria, and all plant and equipment regardless of ownership erected or expanded in Austria subsequent to Anschluss, in the following industries: iron mining; steel and ferro-alloys; armaments (including aircraft); machinery (including automotive vehicles, agricultural machinery, locomotives and rolling stock, bearings and other special components, electrical machinery, and general industrial equipment); electronic equipment; electric power; non-ferrous metals, including light metals; rubber and oil, including synthetic rubber and oil; wood pulp; synthetic fibers; instruments; optical glass; chemicals (including pharmaceuticals and plastics) and photographic equipment; in order that the Allied Council may determine what portion of it is redundant to the development of a sound peacetime Austrian economy and make recommendations to the governments of the occupying powers regarding the treatment of these industries:

d. prevent large-scale exportation of light metals pending subsequent instructions on the policy to be followed regarding the Austrian light metals industry;

e. prevent the construction of plant capacity for the production of synthetic oil and rubber; and establish procedures, in consultation with the Control Council for Germany, for reviewing any projected construction of new or expanded capacity for materials the production of which is prohibited or limited in Germany as a measure of industrial disarmament, in order to ensure that such expansion is not for the purpose of evading controls in Germany;

f. close initially all laboratories, research institutions and similar technical organizations except those considered necessary for the protection of public health and safety, and provide for the maintenance and security of physical facilities where deemed necessary and for the detention of such personnel as are of interest to technological and counter-intelligence investigations. After the provisions of paragraphs 5, 6, 7 and 8 (c) have been applied, the reopening of laboratories, research institutions and similar organizations should be permitted under license and periodic supervision, in accordance with policies which will be communicated to you.

33. Without prejudice to the possible eventual transfer of equipment or production on reparation account in accordance with any Allied agreements which may be reached, the Allied Council should facilitate the conversion of industrial facilities to non-military production. In such conversion it will be your policy to give priority to the production of essential goods and equipment in short supply.

34. The Allied Council should assure that all semi-official or quasi-public business and trade organizations of an authoritarian character are abolished and that any organizations of commerce, industry, agriculture and handicrafts which the Austrians may wish to establish are based on democratic principles.

35. The Allied Council should adopt a policy prohibiting cartels or other private business arrangements and cartel-like organizations including those of public or quasi-public character, such as the Wirtschaftsgruppen, which provide for the regulation of marketing conditions, including production, prices, exclusive exchange of technical information and processes, and allocation of sales territories. Such necessary public functions as have been discharged by these organizations should be absorbed as rapidly as possible by approved public agencies. Pending agreement in the Allied Council, you should take no action in your own zone with regard to this paragraph.

36. The Allied Council should adopt policies designed to prevent or restrain inflation of a character or dimension which would endanger accomplishment of the objectives of the occupation. The Allied Council in particular, should direct and empower Austrian authorities to maintain or establish controls over prices and wages and to take the fiscal and financial measures necessary to this end.

Labor, Health and Social Insurance

37. The Allied Council should permit the self-organization of employees along democratic lines, subject to such safeguards as may be necessary to prevent the perpetuation or revival of Nazi, Fascist or militarist influence under any guise or the continuation of any group hostile to the objectives and operations of the occupying forces. The Allied Council should permit free collective bar-

gaining between employees and employers regarding wages, hours, and working conditions and the establishment of machinery for the settlement of industrial disputes. Collective bargaining shall be within the framework of such wage, hour and other controls as may be instituted or revived.

38. The Allied Council should permit the retention or re-establishment of health services and facilities and non-discriminatory systems of social insurance and poor relief.

Reparation and Restitution

39. As a member of the Allied Council and as zone commander you will ensure that the programs of reparation and restitution embodied in Allied agreements are carried out in so far as they are applicable in Austria. The Allied Council should cooperate with the Control Council in Germany for this purpose. You should urge the Allied Council to an agreement that, until appropriate Allied authorities formulate reparation and restitution program for application in Austria,

- a. no removals should be permitted on reparation account; and
- b. restitution to other countries should be confined to identifiable looted works of art, books, archives and other cultural property.

Foreign Trade

40. The Allied Council should take prompt steps to re-establish Austrian customs autonomy subject to the provisions of paragraph 51 and establish centralized control over all trade in goods and services with foreign countries.

41. In the control of foreign trade the objectives of the Allied Council should be (a) to obtain as much as possible of Austria's essential imports through regular trade; (b) encourage the development by Austrians as rapidly as possible of foreign markets and sources of supply; and (c) to promote the orientation of Austrian trade away from Germany.

The Allied Council should seek to obtain from sources other than military supply sources any imports essential to the achievement of the objectives set forth in this directive. Arrangements may be made with appropriate authorities in Germany for the importation of essential supplies from Germany, whenever in your judgment such supplies cannot be readily obtained from other sources.

The Allied Council should favor the conclusion of such arrangements for the exchange of Austrian goods and services with those of foreign countries including the development of entrepot trade, as will aid in the revival of the Austrian economy on a sound basis and will not prejudice the eventual development of trade on a multilateral basis.

The Allied Council in cooperation with the Austrian authorities, should make a survey of Austrian foreign exchange resources and of the possibilities for foreign markets and sources of supply for Austrian industry and trade to serve as the basis of a program for the development of a sound economy. You will communicate to your government through the Joint Chiefs of Staff the results of such a survey, together with such recommendations as you may deem appropriate.

42. The Allied Council should adopt a policy which would forbid participation of Austrian firms in international cartels or other restrictive contracts and arrangements, and should order the prompt termination of all existing Austrian participation in such cartels, contracts and arrangements. Pending agreement

in the Allied Council, you should take no action in your own zone with regard to this paragraph.

PART III FINANCIAL

General Provisions

43. The Allied Council should adopt, for application throughout Austria, uniform financial measures which are necessary to the accomplishment of the objectives stated in paragraph 4 (b) of this directive and which are in conformity with the principles and policies set forth below. You will urge the establishment of centralized administration of such measures to the extent necessary to achieve these objectives and, pending agreement in the Allied Council, you will adopt such necessary measures in your own zone as are in conformity with the provisions of this directive.

44. In the administration of financial matters you will follow the principles set forth in paragraph 25 of this directive.

45. You will maintain such accounts and records as may be necessary to reflect the financial operations of the military government in your zone, and you will provide the Allied Council with such information as it may require, including information in connection with the use of currency by your forces, any governmental settlements, occupation costs, and other expenditures arising out of operations or activities involving participation of your forces.

46. You will take measures to safeguard books and records of all public and private banks and other financial institutions.

47. Subject to any agreed policies of the Allied Council, you are authorized to take the following steps:

- a. to prohibit, or to prescribe regulations regarding transfers or other dealings in private or public securities or real estate or other property;
- b. to close banks, insurance companies and other financial institutions for a period long enough for you to introduce satisfactory control, to ascertain their cash position, to apply the provisions of paragraphs 5, 6, 7 and 8 (c) of this directive, and to issue instructions for the determination of accounts and assets to be blocked under paragraph 55 below;
- c. to close stock and commodity exchanges and similar institutions for such periods as you deem appropriate and apply the provisions of paragraphs 5, 6, 7 and 8 (c) of this directive;
- d. to establish a general or limited moratorium, or moratoria, to the extent necessary to carry out the objectives stated in this directive. In particular, it may prove desirable to prevent foreclosures of mortgages and the exercise of similar remedies by creditors against individuals and small business enterprises;
- e. to issue regulations prescribing the purposes for which credit may be extended and the terms and conditions governing the extension of credit;
- f. to put into effect such further financial measures as you deem necessary to accomplish the purposes stated in this directive.

48. The Allied Council should designate a suitable bank, preferably the former Vienna Branch of the Reichsbank, to perform under its direction central banking functions. Simultaneously, all connections between such designated bank and institutions or persons in Germany should be severed in accordance

with paragraph 57 of this directive. When satisfied that this bank is under adequate control, the Allied Council may, by ensuring that credits are made available only in schillings through the zone commanders or authorized issuing banks or agencies, place such bank in a position to finance other banks or other financial institutions for the conduct of approved business.

Pending the designation of such a bank by the Allied Council, you may designate a bank in your zone to perform similar functions under your direct control and supervision and subject to the conditions specified above.

In an emergency you are also authorized to make direct advances, in schillings only, to other financial institutions.

Currency

49. The Allied Council should regulate and control the issue and volume of currency in Austria in accordance with the following provisions:

a. United States forces and other Allied forces within Austria will use only Allied military schillings for pay of troops and other military requirements. Allied military schillings will be declared legal tender in Austria. As long as Reichsmarks are legal tender in Austria, Allied military schillings will circulate interchangeably with Reichsmarks at a rate of one Allied military schilling for one Reichsmark. Reichskreditkassenscheine and other military currency issued by the Germans will not be legal tender in Austria;

b. without authorization by the Allied Council, no Austrian governmental or private banks or agencies will be permitted to issue banknotes or currency;

c. appropriate Austrian authorities should, to the maximum extent possible, be required by the Allied Council to make funds available free of cost in amounts sufficient to meet all expenses of the forces of occupation, including the cost of Allied military government, the pay of Allied military personnel, and to the extent that compensation is made therefor the cost of such private property as may be requisitioned, seized, or otherwise acquired by Allied authorities for reparation or restitution purposes;

d. as soon as administratively practicable, a general conversion into Allied Military schillings of the Reichsmark and Rentenmark currency circulated in Austria should be undertaken by the Allied Council or by you in coordination with the other zone commanders.

You will receive separate instructions relative to the currency which you will use in the event that for any reason adequate supplies of Allied Military schillings are not available.

You will not announce or establish, until receipt of further instructions, any general rate of exchange between the Allied Military schilling on the one hand and the U.S. dollar and other currencies on the other. However, the rate of exchange to be used exclusively for pay of troops and military accounting purposes will be ten Allied Military schillings for one U.S. dollar.

Public Finance

50. Subject to any agreed policies of the Allied Council, you will take such action as may be necessary to insure that all laws and practices relating to taxation or other fields of finance, which discriminate for or against any persons because of race, nationality, creed or political opinion, will be amended, suspended or abrogated to the extent necessary to eliminate such discrimination. Consistent with the foregoing purpose, the Austrian authorities should be re-

quired to take such action in the field of taxation as is necessary to assure an adequate inflow of revenues. Any public revenue in Austria previously collected by the German government may be used for approved public expenditures.

51. Pending the determination of the long-range Austrian customs and trade policy, the Austrian authorities may impose duties on imports for revenue purposes. Duties for other purposes should only be imposed with the approval of the Allied Council. No duties will be imposed on imports for military account or for the account of such relief agencies as may be designated.

52. Subject to any agreed policies of the Allied Council, you will prohibit:

a. the payment to ex-soldiers of all military pensions, or other emoluments or benefits, except compensation for physical disability limiting the recipient's ability to work at rates which are no higher than the lowest of those for comparable physical disability arising from non-military causes;

b. the payment of all public or private pensions or other emoluments or benefits granted or conferred

(1) by reason of membership in or services to the former Nazi party, its formations, affiliated associations or supervised organizations or any pre-Nazi Fascist organizations, such as the Heimwehr and the Ostmärkische Sturmsharen;

(2) to any person who has been removed from an office or position in accordance with paragraphs 5, 6 and 8 (c); and

(3) to any person arrested and detained in accordance with paragraph 7 during the term of his arrest, or permanently, in case of his subsequent conviction.

53. The Allied Council should exercise general control and supervision over the expenditures of public funds to the extent necessary to achieve the purposes of the occupation.

54. The Allied Council should promptly initiate a survey for the purpose of ascertaining (a) the amount of the German government debt held in Austria, (b) the amount of all outstanding internal public debts in Austria, and (c) the fiscal position of Austria. You will promptly submit recommendations concerning the treatment of these debts, taking into consideration the effect on Austrian public credit of policies on this matter.

Property Control

55. Subject to any agreed policies of the Allied Council, you will impound or block all gold, silver, currencies, securities accounts in financial institutions, credits, valuable papers, and all other assets falling within the following categories:

a. Property owned or controlled, directly or indirectly, in whole or in part, by any of the following:

(1) the governments, nationals or residents of the German Reich, Italy, Bulgaria, Rumania, Hungary, Finland and Japan, including those of territories occupied by them;

(2) the Austrian State, the municipal and provincial government and all governmental authorities within Austria, including their agencies and instrumentalities;

(3) the Nazi Party, its formations, affiliated associations and supervised organizations, its officials, leading members and supporters;

(4) all organizations, clubs or other associations prohibited or dissolved by military government;

(5) absentee owners, including United Nations and neutral governments;
 (6) any institution dedicated to public worship, charity, education or the arts and sciences, which has been used by the Nazi party to further its interests or to cloak its activities;

(7) persons subject to arrest under the provisions of paragraph 7, and all other persons specified by military government by inclusion in lists or otherwise;

b. Property which has been the subject of transfer under duress, or wrongful acts of confiscation, disposition or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise;

c. Works of art or cultural material of value or importance, regardless of the ownership thereof.

You will take such action as will ensure that any impounded or blocked assets will be dealt with only as permitted under licenses or other instructions which you may issue. In the case particularly of property blocked under a (2) above, you will proceed to adopt licensing measures which, while maintaining such property under surveillance, would permit its use in consonance with this directive. Property taken from Austrians under the conditions stated in b above should be restored as promptly as possible, subject to appropriate safeguards to prevent the cloaking of Nazi, German or militaristic influence.

The Allied Council should seek out and reduce to the possession and control of a special agency all property interests of any type and description owned either directly or indirectly by Germany or a national or a resident thereof.

External Financial and Property Relations

56. All foreign exchange transactions, including those arising out of exports and imports, shall be controlled for the purpose of achieving the objectives set forth in this directive. To effectuate such objectives the Allied Council should

a. seek out and reduce to the possession and control of a special agency all Austrian (public and private) foreign exchange and external assets of every kind and description located within or outside Austria;

b. prohibit, except as authorized by regulation or license, all dealings in gold, silver, foreign exchange, and all foreign exchange transactions of any kind;

c. make available any foreign exchange proceeds of exports for payment of imports necessary to the accomplishment of the objectives set forth in this directive and authorize no other outlay of foreign exchange assets for purposes approved by the Allied Council or other appropriate authority;

d. establish effective controls with respect to all foreign exchange transactions, including:

(1) transactions as to property between persons inside Austria and persons outside Austria;

(2) transactions involving obligations owed by or to become due from any person in Austria to any person outside Austria; and

(3) transactions involving the importation or exportation from Austria of any currency, foreign exchange asset or other form of property.

57. The Allied Council should, in cooperation with the Control Council in Germany, take steps necessary to sever all managerial and other organizational connections of banks, including postal banking offices, and all other business enterprises located in Austria with banks and business enterprises or persons located in Germany.

XII

REPORT ON THE TRIPARTITE CONFERENCE OF POTSDAM

August 2, 1945¹

On July 17, 1945, the President of the United States of America, Harry S. Truman; the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics, Generalissimo J. V. Stalin and the Prime Minister of Great Britain, Winston S. Churchill, together with Mr. Clement R. Attlee, met in the Tripartite Conference of Berlin. They were accompanied by the Foreign Secretaries of the three Governments, Mr. James F. Byrnes, Mr. V. M. Molotoff, and Mr. Anthony Eden, the Chiefs of Staff, and other advisers.

There were nine meetings between July 17 and July 25. The Conference was then interrupted for two days while the results of the British general election were being declared.

On July 28 Mr. Attlee returned to the Conference as Prime Minister, accompanied by the new Secretary of State for Foreign Affairs, Mr. Ernest Bevin. Four days of further discussion then took place. During the course of the Conference there were regular meetings of the heads of the three Governments accompanied by the Foreign Secretaries, and also of the Foreign Secretaries alone. Committees appointed by the Foreign Secretaries for preliminary consideration of questions before the Conference also met daily.

The meetings of the Conference were held at the Cecilienhof, near Potsdam. The Conference ended on August 2, 1945.

Important decisions and agreements were reached. Views exchanged on a number of other questions and considerations of these matters will be continued by the Council of Foreign Ministers established by the Conference.

President Truman, Generalissimo Stalin and Prime Minister Attlee leave this Conference, which has strengthened the ties between the three Governments and extended the scope of their collaboration and understanding, with renewed confidence that their Governments and peoples, together with the other United Nations, will insure the creation of a just and enduring peace.

ESTABLISHMENT OF A COUNCIL OF FOREIGN MINISTERS

The Conference reached an agreement for the establishment of a Council of Foreign Ministers representing the five principal powers to continue the necessary preparatory work for the peace settlements and to take up other matters which from time to time may be referred to the Council by agreement of the Governments participating in the Council.

The text of the agreement for the establishment of the Council of Foreign Ministers is as follows:

1. There shall be established a Council composed of the Foreign Ministers of the United Kingdom, the Union of the Soviet Socialist Republics, China, France and the United States.

2. (I) The Council shall normally meet in London, which shall be the permanent seat of the Joint Secretariat which the Council will form. Each of the Foreign Ministers will be accompanied by a high-ranking deputy, duly authorized to carry on the work of the Council in the absence of his Foreign Minister, and by a small staff of technical advisers.

¹The Potsdam Declaration was released to the press on August 2, 1945. Department of State, *Bulletin*, Vol. XIII (1945), pp. 153-161.

USFET Directive to Commanding Generals

ANNEX III

July 7, 1945

Excerpt: "Blocking + Control of Property"

ADMINISTRATION OF MILITARY GOVERNMENT IN THE U. S. ZONE OF GERMANY 1/

Excerpt, Section XVII, "Blocking and Control of Property":

1. Classes of Property to be restricted.

You will continue to enforce measures previously taken to prevent, except as permitted under licenses or other instructions previously issued or hereafter issued, any transaction or other dealing in any:

a. Property owned or controlled directly or indirectly, in whole or in part, by any of the following:

- (1) The German Reich, or any of the Laender, Gaus or Provinces, or other similar political subdivisions or any agency or instrumentality thereof, including all utilities, undertakings, public corporations or monopolies under control of any of the above;
- (2) Governments, nationals or residents of nations, other than Germany, which have been at war with any of the United Nations at any time since September 1, 1939, and governments, nationals and residents of territories which have been occupied since that date by such nations or by Germany;
- (3) The NSDAP, all offices, departments, agencies and organizations forming part of it, attached to, or controlled by it; their officials, and such of their leading members and supporters as may be known to you or be specified by this Headquarters;
- (4) All persons while held under detention or any other type of custody by you;
- (5) All organizations, clubs or other associations prohibited or dissolved by Military Government;
- (6) Absentee owners of non-German nationality, including United Nations, and neutral governments, or their nationals, and Germans outside of Germany;
- (7) Any Kreis, municipality or other similar local subdivision;
- (8) Any institution dedicated to public worship, charity, education or the arts and sciences, which has been used by the Nazi party to further its interests or to cloak its activities; and

b. Property which has been the subject of transfer under duress, wrongful act of confiscation, dispossession or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise;

c. Works of art or cultural material of value or importance, regardless of the ownership thereof.

1/ USFET Directive to Commanding Generals, Military Districts, 7 July 1945.

Special Report of the Military Governor Nov. 1948
from: COM US
"Property Control History
32 Policies, Practices + Procedures of
The U.S. Area of Control, Germany"

PROCLAMATION NO. 1

To the people of

GERMANY

I. General Dwight D. Eisenhower, Supreme Commander, Allied Expeditionary Force, do hereby proclaim as follows:—

I

The Allied Forces serving under my command have now entered Germany. We come as conquerors, but not as oppressors. In the area of Germany occupied by the forces under my command, we shall obliterate Nazi-ism and German Militarism. We shall overthrow the Nazi rule, dissolve the Nazi Party and abolish the cruel, oppressive and discriminatory laws and institutions which the Party has created. We shall eradicate that German Militarism which has so often disrupted the peace of the world. Military and Party leaders, the Gestapo and others suspected of crimes and atrocities will be tried and, if guilty, punished as they deserve.

II

Supreme legislative, judicial and executive authority and powers within the occupied territory are vested in me as Supreme Commander of the Allied Forces and as Military Governor, and the Military Government is established to exercise these powers under my direction. All persons in the occupied territory will obey immediately and without question all the enactments and orders of the Military Government. Military Government Courts will be established for the punishment of offenders. Resistance to the Allied Forces will be ruthlessly stamped out. Other serious offenses will be dealt with severely.

III

All German courts and educational institutions within the occupied territory are suspended. The Volksgerichtshof, the Sondergerichte, the SS Police Courts and other special courts are deprived of authority throughout the occupied territory. Re-opening of the criminal and civil courts and educational institutions will be authorized when conditions permit.

IV

All officials are charged with the duty of remaining at their posts until further orders, and obeying and enforcing all orders or directions of Military Government or the Allied Authorities addressed to the German Government or the German people. This applies also to officials, employees and workers of all public undertakings and utilities and to all other persons engaged in essential work.

DWIGHT D. EISENHOWER,
SUPREME COMMANDER
Allied Expeditionary Force

MILITARY GOVERNMENT — GERMANY
UNITED STATES ZONE

PROCLAMATION NO. 1

To the People of Germany:

I, General Dwight D. Eisenhower, Commanding General, United States Armed Forces in Europe, do hereby proclaim as follows:

I

As announced on 5 June 1945, supreme authority with respect to Germany has been assumed by the Governments

PROKLAMATION NR. 1

An das

DEUTSCHE VOLK

Ich, General Dwight D. Eisenhower, Oberster Befehlshaber der Alliierten Streitkräfte, gebe hiermit folgendes bekannt:

I

Die Alliierten Streitkräfte, die unter meinem Oberbefehl stehen, haben jetzt deutschen Boden betreten. Wir kommen als ein siegreiches Heer, jedoch nicht als Unterdrücker. In dem deutschen Gebiet, das von Streitkräften unter meinem Oberbefehl besetzt ist, werden wir den Nationalsozialismus und den deutschen Militarismus vernichten, die Herrschaft der Nationalsozialistischen Deutschen Arbeiterpartei beseitigen, die NSDAP auflösen sowie die grausamen, harten und ungerechten Rechtssätze und Einrichtungen, die von der NSDAP geschaffen worden sind, aufheben. Den deutschen Militarismus, der so oft den Frieden der Welt gestört hat, werden wir endgültig beseitigen. Führer der Wehrmacht und der NSDAP, Mitglieder der Geheimen Staatspolizei und andere Personen, die verdächtigt sind, Verbrechen und Grausamkeiten begangen zu haben, werden gerichtlich angeklagt und, falls für schuldig befunden, ihrer gerechten Bestrafung zugeführt.

II

Die höchste gesetzgebende, rechtsprechende und vollziehende Machtbefugnis und Gewalt in dem besetzten Gebiet ist in meiner Person als Oberster Befehlshaber der Alliierten Streitkräfte und als Militär-Gouverneur vereinigt. Die Militärregierung ist eingesetzt, um diese Gewalten unter meinem Befehl auszuüben. Alle Personen in dem besetzten Gebiet haben unverzüglich und widerspruchslos alle Befehle und Verordnungen der Militärregierung zu befolgen. Gerichte der Militärregierung werden eingesetzt, um Rechtsbrecher zu verurteilen. Widerstand gegen die Alliierten Streitkräfte wird unnachlässig gebrochen. Andere schwere strafbare Handlungen werden schärfstens geahndet.

III

Alle deutschen Gerichte, Unterrichts- und Erziehungsanstalten innerhalb des besetzten Gebietes werden bis auf weiteres geschlossen. Dem Volksgerichtshof, den Sondergerichten, den SS Polizei-Gerichten und anderen außerordentlichen Gerichten wird überall im besetzten Gebiet die Gerichtsbarkeit entzogen. Die Wiederaufnahme der Tätigkeit der Straf- und Zivilgerichte und die Wiedereröffnung der Unterrichts- und Erziehungsanstalten wird genehmigt, sobald die Zustände es zulassen.

IV

Alle Beamte sind verpflichtet, bis auf weiteres auf ihren Posten zu verbleiben und alle Befehle und Anordnungen der Militärregierung oder der Alliierten Behörden, die an die deutsche Regierung oder an das deutsche Volk gerichtet sind, zu befolgen und auszuführen. Dies gilt auch für die Beamten, Arbeiter und Angestellten sämtlicher öffentlichen und gemeinwirtschaftlichen Betriebe, sowie für sonstige Personen, die notwendige Tätigkeiten verrichten.

DWIGHT D. EISENHOWER,
Oberster Befehlshaber
der Alliierten Streitkräfte.

MILITÄRREGIERUNG — DEUTSCHLAND
AMERIKANISCHE ZONE

PROKLAMATION NR. 1

AN DAS DEUTSCHE VOLK:

Ich, General Dwight D. Eisenhower, Oberbefehlshaber der Amerikanischen Streitkräfte in Europa, erlasse hiermit folgende Proklamation:

I

Nach der Bekanntmachung vom 5. Juni 1945 haben die Regierungen der Vereinigten Staaten, des Vereinigten Königreichs und der Union der Sozialistischen Sowjetrepubliken

of the United States, the United Kingdom, the Union of Socialist Soviet Republics, and the Provisional Government of the French Republic.

II

The United States Zone of Occupation is occupied by United States Forces under my command and a Military Government under my authority is established therein. All persons in such Government Zone will obey immediately and without question all of the enactments and orders continued in effect or issued by me or under my authority.

III

All Military Government and other orders (including proclamations, laws, ordinances, notices, regulations and directions) issued by or under the authority of the Supreme Commander, Allied Expeditionary Force, are continued in full force and effect in the United States Zone of Occupation except as specifically revoked or modified by me or under my authority. In applying such orders now outstanding within this Zone, all references to Supreme Commander, to Allied Expeditionary Force, and to Allied Military Authorities shall be construed as referring from this date forward to the Commanding General, United States Armed Forces in Europe, to the Armed Forces of the United States in Germany, and to the United States Military Authorities in Germany respectively.

IV

All appointments heretofore made and all authorizations heretofore issued by order of Military Government or otherwise under the authority of the Supreme Commander, Allied Expeditionary Force, continue to be in full force and effect according to their terms until revoked or modified by me or under my authority.

Dated: 14 July 1945.

DWIGHT D. EISENHOWER

General of the Army
Commanding General of the United States Armed Forces in Europe.

und die Provisorische Regierung der Französischen Republik die höchste Autorität hinsichtlich Deutschlands übernommen.

II

Die Amerikanische Besatzungszone ist von Amerikanischen Streitkräften unter meinem Oberbefehl besetzt, und es besteht darin unter meiner Autorität eine Militärregierung. Jede Person in dieser Regierungszone hat unverzüglich und bedingungslos alle Rechtssätze und Anordnungen zu befolgen, soweit sie in Kraft bleiben oder von mir oder in meinem Auftrage erlassen werden.

III

Alle Anordnungen der Militärregierung und sonstige Anordnungen (einschließlich Proklamationen, Gesetze, Verordnungen, Bekanntmachungen, Vorschriften und Anweisungen), die von dem Obersten Befehlshaber der Alliierten Streitkräfte oder in seinem Auftrage erlassen worden sind, bleiben in der Amerikanischen Besatzungszone in vollem Umfange in Kraft, soweit sie nicht ausdrücklich von mir oder in meinem Auftrage aufgehoben oder abgeändert worden sind. Bei der Anwendung der in dieser Zone jetzt geltenden Anordnungen bedeutet jede Bezugnahme auf den Obersten Befehlshaber, die Alliierten Streitkräfte und die Alliierten Militärbehörden von diesem Tage ab den Oberbefehlshaber der Amerikanischen Streitkräfte in Europa, beziehungsweise die Amerikanischen Streitkräfte in Deutschland, beziehungsweise die Amerikanischen Militärbehörden in Deutschland.

IV

Alle im Auftrage der Militärregierung oder sonst auf Grund der Ermächtigung des Obersten Befehlshabers der Alliierten Streitkräfte bis heute vorgenommenen Ernennungen und erteilten Vollmachten bleiben in vollem Umfange laut ihren Bedingungen in Kraft, bis sie von mir oder in meinem Auftrage widerrufen oder abgeändert werden.

Datum: 14. Juli 1945.

DWIGHT D. EISENHOWER

General of the Army
Oberbefehlshaber der Amerikanischen Streitkräfte in Europa.

MILITARY GOVERNMENT — GERMANY
UNITED STATES ZONE

PROCLAMATION NO. 2

To the German people in the United States Zone:

I, General Dwight D. Eisenhower, Commanding General, United States Forces, European Theater, do hereby proclaim as follows: —

ARTICLE I

There are hereby constituted within the United States Zone of Occupation the following administrative areas which will henceforth be referred to as states and each of which will have a state government:

GREATER HESSEN — comprising Kurhessen and Nassau (excepting enclaves thereof and the Kreise Oberwesterwald, Unterwesterwald, Unterlahn and Sankt Goarshausen) and Hessen-Starkenburg, Oberhessen, and the part of Rheinessen east of the Rhine;

WURTEMBERG-BADEN — comprising the Kreise Aalen, Backnang, Böblingen, Crailsheim, Esslingen, Gmünd, Göppingen, Hall, Heidenheim, Heilbronn, Künzelsau, Leonberg, Ludwigsburg, Mergentheim, Nürtingen north of the Autobahn, Öhringen, Stuttgart, Ulm, Vaihingen, Waiblingen, the Landeskommisarbezirk Mannheim, and the Kreise Bruchsal, Karlsruhe Stadt and Land, and Pforzheim Stadt and Land;

BAVARIA — comprising all of Bavaria as constituted in 1933, less Kreis Lindau.

ARTICLE II

Except as heretofore abrogated, suspended or modified by Military Government or by the Control Council for Ger-

MILITÄRREGIERUNG — DEUTSCHLAND
AMERIKANISCHE ZONE

PROKLAMATION NR. 2

An das Deutsche Volk in der Amerikanischen Zone:

Ich, General Dwight D. Eisenhower, Oberster Befehlshaber der Amerikanischen Streitkräfte in Europa, erlasse hiermit folgende Proklamation:

Artikel I

Innerhalb der Amerikanischen Besatzungszone werden hiermit Verwaltungsgebiete gebildet, die von jetzt ab als Staaten bezeichnet werden; jeder Staat wird eine Staatsregierung haben. Die folgenden Staaten werden gebildet:

GROSS-HESSEN umfasst Kurhessen und Nassau (ausschliesslich der zugehörigen Exklaven und der Kreise Oberwesterwald, Unterwesterwald, Unterlahn und Sankt Goarshausen) und Hessen-Starkenburg, Oberhessen, und den östlich des Rheines belegenen Teil von Rheinessen;

WURTEMBERG-BADEN umfasst die Kreise Aalen, Backnang, Böblingen, Crailsheim, Esslingen, Gmünd, Göppingen, Hall, Heidenheim, Heilbronn, Künzelsau, Leonberg, Ludwigsburg, Mergentheim, Nürtingen nördlich der Autobahn, Öhringen, Stuttgart, Ulm, Vaihingen, Waiblingen, den Landeskommisarbezirk Mannheim, und die Kreise Bruchsal, Karlsruhe Stadt und Land, und Pforzheim Stadt und Land;

BAYERN umfasst ganz Bayern, wie es 1933 bestand, ausschliesslich des Kreises Lindau.

Artikel II

Soweit das deutsche Recht, das zur Zeit der Besetzung in Kraft war, nicht durch die Militärregierung oder den

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(5) absentee owners, including United Nations and neutral governments;
 (6) any institution dedicated to public worship, charity, education or the arts and sciences, which has been used by the Nazi party to further its interests or to cloak its activities;

(7) persons subject to arrest under the provisions of paragraph 7, and all other persons specified by military government by inclusion in lists or otherwise;

b. Property which has been the subject of transfer under duress, or wrongful acts of confiscation, disposition or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise;

c. Works of art or cultural material of value or importance, regardless of the ownership thereof.

You will take such action as will ensure that any impounded or blocked assets will be dealt with only as permitted under licenses or other instructions which you may issue. In the case particularly of property blocked under a (2) above, you will proceed to adopt licensing measures which, while maintaining such property under surveillance, would permit its use in consonance with this directive. Property taken from Austrians under the conditions stated in b above should be restored as promptly as possible, subject to appropriate safeguards to prevent the cloaking of Nazi, German or militaristic influence.

The Allied Council should seek out and reduce to the possession and control of a special agency all property interests of any type and description owned either directly or indirectly by Germany or a national or a resident thereof.

External Financial and Property Relations

56. All foreign exchange transactions, including those arising out of exports and imports, shall be controlled for the purpose of achieving the objectives set forth in this directive. To effectuate such objectives the Allied Council should

a. seek out and reduce to the possession and control of a special agency all Austrian (public and private) foreign exchange and external assets of every kind and description located within or outside Austria;

b. prohibit, except as authorized by regulation or license, all dealings in gold, silver, foreign exchange, and all foreign exchange transactions of any kind;

c. make available any foreign exchange proceeds of exports for payment of imports necessary to the accomplishment of the objectives set forth in this directive and authorize no other outlay of foreign exchange assets for purposes approved by the Allied Council or other appropriate authority;

d. establish effective controls with respect to all foreign exchange transactions, including:

(1) transactions as to property between persons inside Austria and persons outside Austria;

(2) transactions involving obligations owed by or to become due from any person in Austria to any person outside Austria; and

(3) transactions involving the importation or exportation from Austria of any currency, foreign exchange asset or other form of property.

57. The Allied Council should, in cooperation with the Control Council in Germany, take steps necessary to sever all managerial and other organizational connections of banks, including postal banking offices, and all other business enterprises located in Austria with banks and business enterprises or persons located in Germany.

XII

REPORT ON THE TRIPARTITE CONFERENCE OF POTSDAM

August 2, 1945¹

On July 17, 1945, the President of the United States of America, Harry S. Truman; the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics, Generalissimo J. V. Stalin and the Prime Minister of Great Britain, Winston S. Churchill, together with Mr. Clement R. Attlee, met in the Tripartite Conference of Berlin. They were accompanied by the Foreign Secretaries of the three Governments, Mr. James F. Byrnes, Mr. V. M. Molotov, and Mr. Anthony Eden, the Chiefs of Staff, and other advisers.

There were nine meetings between July 17 and July 25. The Conference was then interrupted for two days while the results of the British general election were being declared.

On July 28 Mr. Attlee returned to the Conference as Prime Minister, accompanied by the new Secretary of State for Foreign Affairs, Mr. Ernest Bevin. Four days of further discussion then took place. During the course of the Conference there were regular meetings of the heads of the three Governments accompanied by the Foreign Secretaries, and also of the Foreign Secretaries alone. Committees appointed by the Foreign Secretaries for preliminary consideration of questions before the Conference also met daily.

The meetings of the Conference were held at the Cecilienhof, near Potsdam. The Conference ended on August 2, 1945.

Important decisions and agreements were reached. Views exchanged on a number of other questions and considerations of these matters will be continued by the Council of Foreign Ministers established by the Conference.

President Truman, Generalissimo Stalin and Prime Minister Attlee leave this Conference, which has strengthened the ties between the three Governments and extended the scope of their collaboration and understanding, with renewed confidence that their Governments and peoples, together with the other United Nations, will insure the creation of a just and enduring peace.

ESTABLISHMENT OF A COUNCIL OF FOREIGN MINISTERS

The Conference reached an agreement for the establishment of a Council of Foreign Ministers representing the five principal powers to continue the necessary preparatory work for the peace settlements and to take up other matters which from time to time may be referred to the Council by agreement of the Governments participating in the Council.

The text of the agreement for the establishment of the Council of Foreign Ministers is as follows:

1. There shall be established a Council composed of the Foreign Ministers of the United Kingdom, the Union of the Soviet Socialist Republics, China, France and the United States.

2. (1) The Council shall normally meet in London, which shall be the permanent seat of the Joint Secretariat which the Council will form. Each of the Foreign Ministers will be accompanied by a high-ranking deputy, duly authorized to carry on the work of the Council in the absence of his Foreign Minister, and by a small staff of technical advisers.

¹The Potsdam Declaration was released to the press on August 2, 1945. Department of State, *Bulletin*, Vol. XIII (1945), pp. 153-161.

(II) The first meeting of the Council shall be held in London not later than September 1, 1945. Meetings may be held by common agreement in other capitals as may be agreed from time to time.

3. (I) As its immediate important task the Council shall be authorized to draw up, with a view to their submission to the United Nations, treaties of peace with Italy, Rumania, Bulgaria, Hungary and Finland, and to propose settlements of territorial questions outstanding on the termination of the war in Europe. The Council shall be utilized for the preparation of a peace settlement for Germany to be accepted by the government of Germany when a government adequate for the purpose is established.

(II) For the discharge of each of these tasks the Council will be composed of the members representing those states which were signatory to the terms of surrender imposed upon the enemy state concerned. For the purpose of the peace settlement for Italy, France shall be regarded as a signatory to the terms of surrender for Italy. Other members will be invited to participate when matters directly concerning them are under discussion.

(III) Other matters may from time to time be referred to the Council by agreement between the member Governments.

4. (I) Whenever the Council is considering a question of direct interest to a State not represented thereon, such State should be invited to send representatives to participate in the discussion and study of that question.

(II) The Council may adapt its procedure to the particular problem under consideration. In some cases it may hold its own preliminary discussions prior to the participation of other interested states. In other cases, the Council may convoke a formal conference of the state chiefly interested in seeking a solution of the particular problem.

In accordance with the decision of the Conference the three Governments have each addressed an identical invitation to the Governments of China and France to adopt this text and to join in establishing the Council.

The establishment of the Council of Foreign Ministers for the specific purposes named in the text will be without prejudice to the agreement of the Crimea Conference that there should be periodic consultation among the Foreign Secretaries of the United States, the Union of Soviet Socialist Republics and the United Kingdom.

The Conference also considered the position of the European Advisory Commission in the light of the agreement to establish the Council of Foreign Ministers. It was noted with satisfaction that the Commission had ably discharged its principal task by the recommendations that it had furnished for the terms of Germany's unconditional surrender, for the zones of occupation in Germany and Austria and for the inter-Allied control machinery in those countries. It was felt that further work of a detailed character for the coordination of Allied policy for the control of Germany and Austria would in future fall within the competence of the Allied Control Council at Berlin and the Allied Commission at Vienna. Accordingly, it was agreed to recommend that the European Advisory Commission be dissolved.

GERMANY

The Allied armies are in occupation of the whole of Germany and the German people have begun to atone for the terrible crimes committed under the leadership of those whom in the hour of their success they openly approved and blindly obeyed.

Agreement has been reached at this conference on the political and economic principles of a coordinated Allied policy toward defeated Germany during the period of Allied control.

The purpose of this agreement is to carry out the Crimea Declaration on Germany. German militarism and Nazism will be extirpated and the Allies will take in agreement together, now and in the future, the other measures necessary to assure that Germany never again will threaten her neighbors or the peace of the world.

It is not the intention of the Allies to destroy or enslave the German people. It is the intention of the Allies that the German people be given the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis. If their own efforts are steadily directed to this end, it will be possible for them in due course to take their place among the free and peaceful peoples of the world.

The text of the agreement is as follows:

THE POLITICAL AND ECONOMIC PRINCIPLES TO GOVERN THE TREATMENT OF GERMANY IN THE INITIAL CONTROL PERIOD

A. POLITICAL PRINCIPLES.

1. In accordance with the agreement on control machinery in Germany, supreme authority in Germany is exercised on instructions from their respective Governments, by the Commander in Chief of the Armed Forces of the United States of America, the United Kingdom, the Union of Soviet Socialist Republics, and the French Republic, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole, in their capacity as members of the Control Council.

2. So far as is practicable, there shall be uniformity of treatment of the German population throughout Germany.

3. The purposes of the occupation of Germany by which the Control Council shall be guided are:

(I) The complete disarmament and demilitarization of Germany and the elimination or control of all German industry that could be used for military production. To these ends:

(a) All German land, naval and air forces, the S.S., S.A., S.D., and Gestapo, with all their organizations, staffs and institutions, including the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans' organizations and all other military and quasi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and Nazism.

(b) All arms, ammunition and implements of war and all specialized facilities for their production shall be held at the disposal of the Allies or destroyed. The maintenance and production of all aircraft and all arms, ammunition and implements of war shall be prevented.

(II) To convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves, since their own ruthless warfare and the fanatical Nazi resistance have destroyed German economy and made chaos and suffering inevitable.

(III) To destroy the National Socialist Party and its affiliated and supervised organizations, to dissolve all Nazi institutions, to insure that they are not revived in any form, and to prevent all Nazi and militarist activity or propaganda.

(IV) To prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful cooperation in international life by Germany.

(4) All Nazi laws which provided the basis of the Hitler regime or established discrimination on grounds of race, creed, or political opinion shall be abolished. No such discriminations, whether legal, administrative or otherwise, shall be tolerated.

5. War criminals and those who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes shall be arrested and brought to judgment. Nazi leaders, influential Nazi supporters and high officials of Nazi organizations and institutions and any other persons dangerous to the occupation or its objectives shall be arrested and interned.

6. All members of the Nazi party who have been more than nominal participants in its activities and all other persons hostile to Allied purposes shall be removed from public and semi-public office and from positions of responsibility in important private undertakings. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.

7. German education shall be so controlled as completely to eliminate Nazi and militaristic doctrines and to make possible the successful development of democratic ideas.

8. The judicial system will be reorganized in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens without distinction of race, nationality or religion.

9. The administration of affairs in Germany should be directed toward the decentralization of the political structure and the development of local responsibility. To this end:

(I) Local self-government shall be restored throughout Germany on democratic principles and in particular through elective councils as rapidly as is consistent with military security and the purposes of military occupation;

(II) All democratic political parties with rights of assembly and of public discussions shall be allowed and encouraged throughout Germany;

(III) Representatives and elective principles shall be introduced into regional, provincial and state (land) administration as rapidly as may be justified by the successful application of these principles in local self-government;

(IV) For the time being no central German Government shall be established. Notwithstanding this, however, certain essential central German administrative departments, headed by State Secretaries, shall be established, particularly in the fields of finance, transport, communications, foreign trade and industry. Such departments will act under the direction of the Control Council.

10. Subject to the necessity for maintaining military security, freedom of speech, press and religion shall be permitted, and religious institutions shall be respected. Subject likewise to the maintenance of military security, the formation of free trade unions shall be permitted.

B. ECONOMIC PRINCIPLES

11. In order to eliminate Germany's war potential, the production of arms,

ammunition and implements of war as well as all types of aircraft and sea-going ships shall be prohibited and prevented. Production of metals, chemicals, machinery and other items that are directly necessary to a war economy shall be rigidly controlled and restricted to Germany's approved postwar peacetime needs to meet the objectives stated in paragraph 15. Productive capacity not needed for permitted production shall be removed in accordance with the reparations plan recommended by the Allied Commission on reparations and approved by the Governments concerned, or if not removed shall be destroyed.

12. At the earliest practicable date the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts and other monopolistic arrangements.

13. In organizing the German economy, primary emphasis shall be given to the development of agriculture and peaceful domestic industries.

14. During the period of occupation Germany shall be treated as a single economic unit. To this end common policies shall be established in regard to:

- (a) Mining and industrial production and allocations;
- (b) Agriculture, forestry and fishing;
- (c) Wages, prices and rationing;
- (d) Import and export program for Germany as a whole;
- (e) Currency and banking, central taxation and customs;
- (f) Reparation and removal of industrial war potential;
- (g) Transportation and communications.

In applying these policies account shall be taken, where appropriate, of varying local conditions.

15. Allied controls shall be imposed upon the German economy, but only to the extent necessary:

(a) To carry out programs of industrial disarmament and demilitarization, of reparations, and of approved exports and imports.

(b) To assure the production and maintenance of goods and services required to meet the needs of the occupying forces and displaced persons in Germany, and essential to maintain in Germany average living standards not exceeding the average of the standards of living of European countries. (European countries means all European countries, excluding the United Kingdom and the Union of Soviet Socialist Republics.)

(c) To ensure in the manner determined by the Control Council the equitable distribution of essential commodities between the several zones so as to produce a balanced economy throughout Germany and reduce the need for imports.

(d) To control German industry and all economic and financial international transactions, including exports and imports, with the aim of preventing Germany from developing a war potential and of achieving the other objectives named herein.

(e) To control all German public or private scientific bodies, research and experimental institutions, laboratories, etc., connected with economic activities.

16. In the imposition and maintenance of economic controls established by the Control Council German administrative machinery shall be created and the German authorities shall be required to the fullest extent practicable to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such

controls and any breakdown in these controls will rest with themselves. Any German controls which may run counter to the objectives of occupation will be prohibited.

17. Measures shall be promptly taken:

- (a) To effect essential repair of transport;
- (b) To enlarge coal production;
- (c) To maximize agricultural output; and
- (d) To effect emergency repair of housing and essential utilities.

18. Appropriate steps shall be taken by the Control Council to exercise control and the power of disposition over German-owned external assets not already under the control of United Nations which have taken part in the war against Germany.

19. Payment of reparations should leave enough resources to enable the German people to subsist without external assistance. In working out the economic balance of Germany the necessary means must be provided to pay for imports approved by the Control Council in Germany. The proceeds of exports from current production and stocks shall be available in the first place for payment for such imports.

The above clause will not apply to the equipment and products referred to in paragraphs 4 (a) and 4 (b) of the reparations agreement.

REPARATIONS FROM GERMANY

In accordance with the Crimea decision that Germany be compelled to compensate to the greatest possible extent for the loss and suffering that she has caused to the United Nations and for which the German people cannot escape responsibility, the following agreement on reparations was reached:

1. Reparation claims of the USSR shall be met by removals from the zone of Germany occupied by the USSR and from appropriate German external assets.

2. The USSR undertakes to settle the reparation claims of Poland from its own share of reparations.

3. The reparation claims of the United States, the United Kingdom and other countries entitled to reparations shall be met from the western zones and from appropriate German external assets.

4. In addition to the reparations to be taken by the USSR from its own zone of occupation, the USSR shall receive additionally from the western zones:

(a) Fifteen per cent of such usable and complete industrial capital equipment, in the first place from the metallurgical, chemical and machine manufacturing industries, as is unnecessary for the German peace economy should be removed from the western zones of Germany, in exchange for an equivalent value of food, coal, potash, zinc, timber, clay products, petroleum products and such other commodities as may be agreed upon.

(b) Ten per cent of such industrial capital equipment as is unnecessary for the German peace economy and should be removed from the western zones, to be transferred to the Soviet Government on reparations account without payment or exchange of any kind in return.

Removals of equipment as provided in (a) and (b) above shall be made simultaneously.

5. The amount of equipment to be removed from the western zones on account of reparations must be determined within six months from now at the latest.

6. Removals of industrial capital equipment shall begin as soon as possible

and shall be completed within two years from the determination specified in paragraph 5. The delivery of products covered by 4 (a) above shall begin as soon as possible and shall be made by the USSR in agreed installments within five years of the date hereof. The determination of the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparations shall be made by the Control Council under policies fixed by the Allied Commission on Reparations, with the participation of France, subject to the final approval of the Zone Commander in the Zone from which the equipment is to be removed.

7. Prior to the fixing of the total amount of equipment subject to removal, advance deliveries shall be made in respect of such equipment as will be determined to be eligible for delivery in accordance with the procedure set forth in the last sentence of paragraph 6.

8. The Soviet Government renounces all claims in respect of reparations to shares of German enterprises which are located in the western zones of occupation in Germany, as well as to German foreign assets in all countries, except those specified in paragraph 9 below.

The Governments of the United Kingdom and the United States of America renounce their claims in respect of reparations to shares of German enterprises which are located in the eastern zone of occupation in Germany, as well as to German foreign assets in Bulgaria, Finland, Hungary, Rumania and eastern Austria.

10. The Soviet Government makes no claims to gold captured by the Allied troops in Germany.

DISPOSAL OF THE GERMAN NAVY AND MERCHANT MARINE

The Conference agreed in principle upon arrangements for the use and disposal of the surrendered German fleet and merchant ships. It was decided that the three governments would appoint experts to work out together detailed plans to give effect to the agreed principles. A further joint statement will be published simultaneously by the three governments in due course.

CITY OF KOENIGSBERG AND THE ADJACENT AREA

The Conference examined a proposal by the Soviet Government that pending the final determination of territorial questions at the peace settlement the section of the western frontier of the Union of Soviet Socialist Republics which is adjacent to the Baltic Sea should pass from a point on the eastern shore of the Bay of Danzig to the east, north of Braunsberg-Goldap, to the meeting point of the frontiers of Lithuania, the Polish Republic and East Prussia.

The Conference has agreed in principle to the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the city of Koenigsberg and the area adjacent to it as described above, subject to expert examination of the actual frontier.

The President of the United States and the British Prime Minister have declared that they will support the proposal of the Conference at the forthcoming peace settlement.

WAR CRIMINALS

The three governments have taken note of the discussions which have been proceeding in recent weeks in London between British, United States, Soviet and French representatives with a view to reaching agreement on the methods

of trial of those major war criminals whose crimes under the Moscow Declarations of October 1943, have no particular geographical localization.

The three Governments reaffirm their intention to bring those criminals to swift and sure justice. They hope that the negotiations in London will result in speedy agreement being reached for this purpose, and they regard it as a matter of great importance that the trial of those major criminals should begin at the earliest possible date. The first list of defendants will be published before September 1.

AUSTRIA

The conference examined a proposal by the Soviet Government on the extension of the authority of the Austrian Provisional Government to all of Austria.

The three Governments agreed that they were prepared to examine this question after the entry of the British and American forces into the city of Vienna.

POLAND

The conference considered questions relating to the Polish Provisional Government and the western boundary of Poland.

On the Polish Provisional Government of National Unity they defined their attitude in the following statement:

A. We have taken note with pleasure of the agreement reached among representative Poles from Poland and abroad which has made possible the formation, in accordance with the decisions reached at the Crimea Conference, of a Polish Provisional Government of National Unity recognized by the three Powers. The establishment by the British and United States Governments of diplomatic relations with the Polish Provisional Government has resulted in the withdrawal of their recognition from the former Polish Government in London, which no longer exists.

The British and United States Governments have taken measures to protect the interest of the Polish Provisional Government, as the recognized Government of the Polish State, in the property belonging to the Polish State located in their territories and under their control, whatever the form of this property may be. They have further taken measures to prevent alienation to third parties of such property. All proper facilities will be given to the Polish Provisional Government for the exercise of the ordinary legal remedies for the recovery of any property belonging to the Polish State which may have been wrongfully alienated.

The three Powers are anxious to assist the Polish Provisional Government in facilitating the return to Poland as soon as practicable of all Poles abroad who wish to go, including members of the Polish armed forces and the merchant marine. They expect that those Poles who return home shall be accorded personal and property rights on the same basis as all Polish citizens.

The three Powers note that the Polish Provisional Government, in accordance with the decisions of the Crimea Conference, has agreed to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot in which all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates, and that representatives of the Allied press shall enjoy full freedom to report to the world upon developments in Poland before and during the elections.

B. The following agreement was reached on the western frontier of Poland:

In conformity with the agreement on Poland reached at the Crimea Conference the three heads of Government have sought the opinion of the Polish Provisional Government of National Unity in regard to the accession of territory in the north and west which Poland should receive. The president of the National Council of Poland and members of the Polish Provisional Government of National Unity have been received at the conference and have fully presented their views. The three heads of Government reaffirm their opinion that the final de-limitation of the western frontier of Poland should await the peace settlement.

The three heads of Government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinemünde, and thence along the Oder River to the confluence of the western Neisse River and along the western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this Conference and including the area of the former free city of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.

CONCLUSION OF PEACE TREATIES AND ADMISSION TO THE UNITED NATIONS ORGANIZATION

The Conference agreed upon the following statement of common policy for establishing, as soon as possible, the conditions of lasting peace after victory in Europe:

The three Governments consider it desirable that the present anomalous position of Italy, Bulgaria, Finland, Hungary and Rumania should be terminated by the conclusion of peace treaties. They trust that the other interested Allied Governments will share these views.

For their part, the three Governments have included the preparation of a peace treaty for Italy as the first among the immediate important tasks to be undertaken by the new Council of Foreign Ministers. Italy was the first of the Axis powers to break with Germany, to whose defeat she has made a material contribution, and has now joined with the Allies in the struggle against Japan.

Italy has freed herself from the Fascist regime and is making good progress toward the re-establishment of a democratic government and institutions. The conclusion of such a peace treaty with a recognized and democratic Italian Government will make it possible for the three Governments to fulfill their desire to support an application from Italy for membership of the United Nations.

The three Governments have also charged the Council of Foreign Ministers with the task of preparing peace treaties for Bulgaria, Finland, Hungary and Rumania.

The conclusion of peace treaties with recognized democratic governments in these states will also enable the three Governments to support applications from them for membership of the United Nations. The three Governments agree to examine, each separately in the near future, in the light of the conditions then prevailing, the establishment of diplomatic relations with Finland, Rumania, Bulgaria and Hungary to the extent possible prior to the conclusion of peace treaties with those countries.

The three Governments have no doubt that in view of the changed conditions resulting from the termination of the war in Europe, representatives of the Allied press will enjoy full freedom to report to the world upon developments in Rumania, Bulgaria, Hungary and Finland.

As regards the admission of other States into the United Nations organization, Article 4 of the Charter of the United Nations declared that:

"1. Membership in the United Nations is open to all other peace-loving States who accept the obligations contained in the present Charter and, in the judgment of the organization, are able and willing to carry out these obligations;

"2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council."

The three Governments, so far as they are concerned, will support applications for membership from those States which have remained neutral during the war and which fulfill the qualifications set out above.

The three Governments feel bound however to make it clear that they for their part would not favor any application for membership put forward by the present Spanish Government, which, having been founded with the support of the Axis Powers, does not, in view of its origins, its nature, its record and its close association with the aggressor States, possess the qualifications necessary to justify such membership.

TERRITORIAL TRUSTEESHIPS

The conference examined a proposal by the Soviet Government concerning trusteeship territories as defined in the decision of the Crimea Conference and in the Charter of the United Nations Organization.

After an exchange of views on this question it was decided that the disposition of any former Italian territories was one to be decided in connection with the preparation of a peace treaty for Italy and that the question of Italian territory would be considered by the September council of Ministers of Foreign Affairs.

REVISED ALLIED CONTROL COMMISSION PROCEDURE IN RUMANIA, BULGARIA, AND HUNGARY

The three Governments took note that the Soviet representatives on the Allied Control Commissions in Rumania, Bulgaria and Hungary have communicated to their United Kingdom and United States colleagues proposals for improving the work of the control commission, now that hostilities in Europe have ceased.

The three Governments agreed that the revision of the procedures of the Allied Control Commissions in these countries would now be undertaken, taking into account the interests and responsibilities of the three Governments which together presented the terms of armistice to the respective countries, and accepting as a basis the agreed proposals.

ORDERLY TRANSFERS OF GERMAN POPULATIONS

The conference reached the following agreement on the removal of Germans from Poland, Czechoslovakia and Hungary:

The three Governments having considered the question in all its aspects, recognize that the transfer to Germany of German populations, or elements thereof, remaining in Poland, Czechoslovakia and Hungary will have to be

undertaken. They agree that any transfers that take place should be effected in an orderly and humane manner.

Since the influx of a large number of Germans into Germany would increase the burden already resting on the occupying authorities, they consider that the Allied Control Council in Germany should in the first instance examine the problem with special regard to the question of the equitable distribution of these Germans among the several zones of occupation. They are accordingly instructing their respective representatives on the control council to report to their Governments as soon as possible the extent to which such persons have already entered Germany from Poland, Czechoslovakia and Hungary, and to submit an estimate of the time and rate at which further transfers could be carried out, having regard to the present situation in Germany.

The Czechoslovak Government, the Polish Provisional Government and the Control Council in Hungary are at the same time being informed of the above and are being requested meanwhile to suspend further expulsions pending the examination by the Governments concerned of the report from their representatives on the control council.

MILITARY TALKS

During the conference there were meetings between the Chiefs of Staff of the three Governments on military matters of common interest.

Approved:

J. V. Stalin,
Harry S. Truman,
C. R. Attlee.

XIII

DECLARATION DEFINING TERMS FOR JAPANESE SURRENDER

July 26, 1945¹

(1) We—the President of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain—representing the hundreds of millions of our countrymen, have conferred and agree that Japan shall be given an opportunity to end this war.

(2) The prodigious land, sea and air forces of the United States, the British Empire and of China, many times reinforced by their armies and air fleets from the west, are poised to strike the final blows upon Japan. This military power is sustained and inspired by the determination of all the Allied Nations to prosecute the war against Japan until she ceases to resist.

(3) The result of the futile and senseless German resistance to the might of the aroused free peoples of the world stands forth in awful clarity as an example to the people of Japan. The might that now converges on Japan is immeasurably greater than that which, when applied to the resisting Nazis, necessarily laid waste to the lands, the industry and the method of life of the whole German people. The full application of our military power, backed by our resolve, *will* mean the inevitable and complete destruction of the Japanese homeland.

¹This Potsdam Declaration was issued by the heads of governments of the United States, Great Britain, and China, the President of the National Government of China communicating with President Truman by dispatch. Department of State, *Bulletin*, Vol. XIII (1945) pp. 137-138.

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Tripartite Conference at Berlin

[Released to the press by the White House August 2]

I

REPORT ON THE TRIPARTITE CONFERENCE OF BERLIN

On July 17, 1945, the President of the United States of America, Harry S. Truman, the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics, Generalissimo J. V. Stalin, and the Prime Minister of Great Britain, Winston S. Churchill, together with Mr. Clement R. Attlee, met in the Tripartite Conference of Berlin. They were accompanied by the foreign secretaries of the three governments, Mr. James F. Byrnes, Mr. V. M. Molotov, and Mr. Anthony Eden, the Chiefs of Staff, and other advisers.

There were nine meetings between July seventeenth and July twenty-fifth. The conference was then interrupted for two days while the results of the British general election were being declared.

On July twenty-eighth Mr. Attlee returned to the conference as Prime Minister, accompanied by the new Secretary of State for Foreign Affairs, Mr. Ernest Bevin. Four days of further discussion then took place. During the course of the conference there were regular meetings of the heads of the three governments accompanied by the foreign secretaries, and also of the foreign secretaries alone. Committees appointed by the foreign secretaries for preliminary consideration of questions before the conference also met daily.

The meetings of the conference were held at the Cecilienhof near Potsdam. The conference ended on August 2, 1945.

Important decisions and agreements were reached. Views were exchanged on a number of other questions and consideration of these matters will be continued by the council of foreign ministers established by the conference.

President Truman, Generalissimo Stalin and Prime Minister Attlee leave this conference, which has strengthened the ties between the three govern-

ments and extended the scope of their collaboration and understanding, with renewed confidence that their governments and peoples, together with the other United Nations, will ensure the creation of a just and enduring peace.

II

ESTABLISHMENT OF A COUNCIL OF FOREIGN MINISTERS

The conference reached an agreement for the establishment of a Council of Foreign Ministers representing the five principal powers to continue the necessary preparatory work for the peace settlements and to take up other matters which from time to time may be referred to the Council by agreement of the governments participating in the Council.

The text of the agreement for the establishment of the Council of Foreign Ministers is as follows:

1. There shall be established a Council composed of the foreign ministers of the United Kingdom, the Union of Soviet Socialist Republics, China, France and the United States.

2.(i) The Council shall normally meet in London, which shall be the permanent seat of the joint secretariat which the Council will form. Each of the foreign ministers will be accompanied by a high-ranking deputy, duly authorized to carry on the work of the Council in the absence of his foreign minister, and by a small staff of technical advisers.

(ii) The first meeting of the Council shall be held in London not later than September 1, 1945. Meetings may be held by common agreement in other capitals as may be agreed from time to time.

3.(i) As its immediate important task, the Council shall be authorized to draw up, with a view to their submission to the United Nations, treaties of peace with Italy, Rumania, Bulgaria, Hungary and Finland, and to propose settlements of territorial questions outstanding on the termination of the war in Europe. The Council shall be utilized for the preparation of a peace settlement for Ger-

many to be accepted by the government of Germany when a government adequate for the purpose is established.

(ii) For the discharge of each of these tasks the Council will be composed of the members representing those states which were signatory to the terms of surrender imposed upon the enemy state concerned. For the purpose of the peace settlement for Italy, France shall be regarded as a signatory to the terms of surrender for Italy. Other members will be invited to participate when matters directly concerning them are under discussion.

(iii) Other matters may from time to time be referred to the Council by agreement between the member governments.

4. (i) Whenever the Council is considering a question of direct interest to a state not represented thereon, such state should be invited to send representatives to participate in the discussion and study of that question.

(ii) The Council may adapt its procedure to the particular problem under consideration. In some cases it may hold its own preliminary discussions prior to the participation of other interested states. In other cases, the Council may convoke a formal conference of the state chiefly interested in seeking a solution of the particular problem.

In accordance with the decision of the conference the three governments have each addressed an identical invitation to the governments of China and France to adopt this text and to join in establishing the Council.

The establishment of the Council of Foreign Ministers for the specific purposes named in the text will be without prejudice to the agreement of the Crimea Conference that there should be periodic consultation among the foreign secretaries of the United States, the Union of Soviet Socialist Republics and the United Kingdom.

The conference also considered the position of the European Advisory Commission in the light of the agreement to establish the Council of Foreign Ministers. It was noted with satisfaction that the Commission had ably discharged its principal tasks by the recommendations that it had furnished for the terms of Germany's unconditional surrender, for the zones of occupation in Germany and Austria, and for the inter-Allied control machinery in those countries. It was felt that further work of a detailed character for the coordination of allied policy for the control of Germany

and Austria would in future fall within the competence of the Allied Control Council at Berlin and the Allied Commission at Vienna. Accordingly, it was agreed to recommend that the European Advisory Commission be dissolved.

III

GERMANY

The Allied Armies are in occupation of the whole of Germany and the German people have begun to atone for the terrible crimes committed under the leadership of those whom in the hour of their success, they openly approved and blindly obeyed.

Agreement has been reached at this conference on the political and economic principles of a coordinated Allied policy toward defeated Germany during the period of Allied control.

The purpose of this agreement is to carry out the Crimea Declaration on Germany. German militarism and Nazism will be extirpated and the Allies will take in agreement together, now and in the future, the other measures necessary to assure that Germany never again will threaten her neighbors or the peace of the world.

It is not the intention of the Allies to destroy or enslave the German people. It is the intention of the Allies that the German people be given the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis. If their own efforts are steadily directed to this end, it will be possible for them in due course to take their place among the free and peaceful peoples of the world.

The text of the agreement is as follows:

The Political and Economic Principles to Govern the Treatment of Germany in the Initial Control Period.

A. Political Principles.

1. In accordance with the agreement on control machinery in Germany, supreme authority in Germany is exercised on instructions from their respective governments, by the Commanders-in-Chief of the armed forces of the United States of America, the United Kingdom, the Union of Soviet Socialist Republics, and the French Republic, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole, in their capacity as members of the Control Council.

2. So far as is practicable, there shall be uniformity of treatment of the German population throughout Germany.

3. The purposes of the occupation of Germany by which the Control Council shall be guided are:

(i) The complete disarmament and demilitarization of Germany and the elimination or control of all German industry that could be used for military production. To these ends:

(a) All German land, naval and air forces, the S.S., S.A., S.D., and Gestapo, with all their organizations, staffs and institutions, including the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans' organizations and all other military and quasi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and Nazism.

(b) All arms, ammunition and implements of war and all specialized facilities for their production shall be held at the disposal of the Allies or destroyed. The maintenance and production of all aircraft and all arms, ammunition and implements of war shall be prevented.

(ii) To convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves, since their own ruthless warfare and the fanatical Nazi resistance have destroyed German economy and made chaos and suffering inevitable.

(iii) To destroy the National Socialist Party and its affiliated and supervised organizations; to dissolve all Nazi institutions, to ensure that they are not revived in any form, and to prevent all Nazi and militarist activity or propaganda.

(iv) To prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful cooperation in international life by Germany.

4. All Nazi laws which provided the basis of the Hitler regime or established discrimination on grounds of race, creed, or political opinion shall be abolished. No such discriminations, whether legal, administrative or otherwise, shall be tolerated.

5. War criminals and those who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes shall be arrested and brought to judgment. Nazi leaders, influential Nazi supporters and high officials of Nazi organizations and institutions and

any other persons dangerous to the occupation or its objectives shall be arrested and interned.

6. All members of the Nazi party who have been more than nominal participants in its activities and all other persons hostile to allied purposes shall be removed from public and semi-public office, and from positions of responsibility in important private undertakings. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.

7. German education shall be so controlled as completely to eliminate Nazi and militarist doctrines and to make possible the successful development of democratic ideas.

8. The judicial system will be reorganized in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens without distinction of race, nationality or religion.

9. The administration of affairs in Germany should be directed towards the decentralization of the political structure and the development of local responsibility. To this end:

(i) Local self-government shall be restored throughout Germany on democratic principles and in particular through elective councils as rapidly as is consistent with military security and the purposes of military occupation;

(ii) All democratic political parties with rights of assembly and of public discussion shall be allowed and encouraged throughout Germany;

(iii) Representative and elective principles shall be introduced into regional, provincial and state (land) administration as rapidly as may be justified by the successful application of these principles in local self-government;

(iv) For the time being no central German government shall be established. Notwithstanding this, however, certain essential central German administrative departments, headed by state secretaries, shall be established, particularly in the fields of finance, transport, communications, foreign trade and industry. Such departments will act under the direction of the Control Council.

10. Subject to the necessity for maintaining military security, freedom of speech, press and religion shall be permitted, and religious institutions shall be respected. Subject likewise to the maintenance of military security, the formation of free trade unions shall be permitted.

B. Economic Principles.

11. In order to eliminate Germany's war potential, the production of arms, ammunition and implements of war as well as all types of aircraft and sea-going ships shall be prohibited and prevented. Production of metals, chemicals, machinery and other items that are directly necessary to a war economy shall be rigidly controlled and restricted to Germany's approved post-war peacetime needs to meet the objectives stated in paragraph 15. Productive capacity not needed for permitted production shall be removed in accordance with the reparations plan recommended by the Allied Commission on reparations and approved by the governments concerned or if not removed shall be destroyed.

12. At the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts and other monopolistic arrangements.

13. In organizing the German economy, primary emphasis shall be given to the development of agriculture and peaceful domestic industries.

14. During the period of occupation Germany shall be treated as a single economic unit. To this end common policies shall be established in regard to:

- (a) Mining and industrial production and allocations;
- (b) Agriculture, forestry and fishing;
- (c) Wages, prices and rationing;
- (d) Import and export programs for Germany as a whole;
- (e) Currency and banking, central taxation and customs;
- (f) Reparation and removal of industrial war potential;
- (g) Transportation and communications.

In applying these policies account shall be taken, where appropriate, of varying local conditions.

15. Allied controls shall be imposed upon the German economy but only to the extent necessary:

- (a) To carry out programs of industrial disarmament and demilitarization, of reparations, and of approved exports and imports.
- (b) To assure the production and maintenance of goods and services required to meet the needs of

the occupying forces and displaced persons in Germany and essential to maintain in Germany average living standards not exceeding the average the standards of living of European countries (European countries means all European countries excluding the United Kingdom and the Union Soviet Socialist Republics.)

(c) To ensure in the manner determined by the Control Council the equitable distribution of essential commodities between the several zones as to produce a balanced economy throughout Germany and reduce the need for imports.

(d) To control German industry and all economic and financial international transactions, including exports and imports, with the aim of preventing Germany from developing a war potential and of achieving the other objectives named here.

(e) To control all German public or private scientific bodies, research and experimental institutions, laboratories, et cetera, connected with economic activities.

16. In the imposition and maintenance of economic controls established by the Control Council German administrative machinery shall be created and the German authorities shall be required to the fullest extent practicable to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls and any breakdown in these controls will rest with themselves. Any German controls which may run counter to the objectives of occupation will be prohibited.

17. Measures shall be promptly taken:

- (a) To effect essential repair of transport;
- (b) To enlarge coal production;
- (c) To maximize agricultural output; and
- (d) To effect emergency repair of housing and essential utilities.

18. Appropriate steps shall be taken by the Control Council to exercise control and the power of disposition over German-owned external assets not already under the control of United Nations which have taken part in the war against Germany.

19. Payment of reparations should leave enough resources to enable the German people to subsist without external assistance. In working out the economic balance of Germany the necessary means must be provided to pay for imports approved by the Control Council in Germany. The proceeds of exports from current production and stocks shall

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be available in the first place for payment for such imports.

The above clause will not apply to the equipment and products referred to in paragraphs 4(A) and 4(B) of the Reparations Agreement.

IV

REPARATIONS FROM GERMANY

In accordance with the Crimea decision that Germany be compelled to compensate to the greatest possible extent for the loss and suffering that she has caused to the United Nations and for which the German people cannot escape responsibility, the following agreement on reparations was reached:

1. Reparation claims of the U.S.S.R. shall be met by removals from the zone of Germany occupied by the U.S.S.R. and from appropriate German external assets.

2. The U.S.S.R. undertakes to settle the reparation claims of Poland from its own share of reparations.

3. The reparation claims of the United States, the United Kingdom and other countries entitled to reparations shall be met from the western zones and from appropriate German external assets.

4. In addition to the reparations to be taken by the U.S.S.R. from its own zone of occupation, the U.S.S.R. shall receive additionally from the western zones:

(A) 15 per cent of such usable and complete industrial capital equipment, in the first place from the metallurgical, chemical and machine manufacturing industries, as is unnecessary for the German peace economy and should be removed from the western zones of Germany, in exchange for an equivalent value of food, coal, potash, zinc, timber, clay products, petroleum products, and such other commodities as may be agreed upon.

(B) 10 per cent of such industrial capital equipment as is unnecessary for the German peace economy and should be removed from the western zones, to be transferred to the Soviet Government on reparations account without payment or exchange of any kind in return.

Removals of equipment as provided in (A) and (B) above shall be made simultaneously.

5. The amount of equipment to be removed from the western zones on account of reparations must

be determined within six months from now at the latest.

6. Removals of industrial capital equipment shall begin as soon as possible and shall be completed within two years from the determination specified in paragraph 5. The delivery of products covered by 4(A) above shall begin as soon as possible and shall be made by the U.S.S.R. in agreed installments within five years of the date hereof. The determination of the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparations shall be made by the control council under policies fixed by the Allied Commission on Reparations, with the participation of France, subject to the final approval of the zone commander in the zone from which the equipment is to be removed.

7. Prior to the fixing of the total amount of equipment subject to removal, advance deliveries shall be made in respect of such equipment as will be determined to be eligible for delivery in accordance with the procedure set forth in the last sentence of paragraph 6.

8. The Soviet Government renounces all claims in respect of reparations to shares of German enterprises which are located in the western zones of occupation in Germany as well as to German foreign assets in all countries except those specified in paragraph 9 below.

9. The Governments of the United Kingdom and the United States of America renounce their claims in respect of reparations to shares of German enterprises which are located in the eastern zone of occupation in Germany, as well as to German foreign assets in Bulgaria, Finland, Hungary, Rumania and Eastern Austria.

10. The Soviet Government makes no claims to gold captured by the Allied troops in Germany.

V

DISPOSAL OF THE GERMAN NAVY AND MERCHANT MARINE

The conference agreed in principle upon arrangements for the use and disposal of the surrendered German fleet and merchant ships. It was decided that the three governments would appoint experts to work out together detailed plans to give effect to the agreed principles. A further joint statement will be published simultaneously by the three governments in due course.

VI

CITY OF KOENIGSBERG AND THE ADJACENT AREA

The conference examined a proposal by the Soviet Government that pending the final determination of territorial questions at the peace settlement the section of the western frontier of the Union of Soviet Socialist Republics which is adjacent to the Baltic Sea should pass from a point on the eastern shore of the Bay of Danzig to the east, north of Braunsberg-Goldap, to the meeting point of the frontiers of Lithuania, the Polish Republic and East Prussia.

The conference has agreed in principle to the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the City of Koenigsberg and the area adjacent to it as described above subject to expert examination of the actual frontier.

The President of the United States and the British Prime Minister have declared that they will support the proposal of the conference at the forthcoming peace settlement.

VII

WAR CRIMINALS

The three governments have taken note of the discussions which have been proceeding in recent weeks in London between British, United States, Soviet and French representatives with a view to reaching agreement on the methods of trial of those major war criminals whose crimes under the Moscow Declaration of October 1943 have no particular geographical localization. The three governments reaffirm their intention to bring those criminals to swift and sure justice. They hope that the negotiations in London will result in speedy agreement being reached for this purpose, and they regard it as a matter of great importance that the trial of those major criminals should begin at the earliest possible date. The first list of defendants will be published before September first.

VIII

AUSTRIA

The conference examined a proposal by the Soviet Government on the extension of the authority of the Austrian Provisional Government to all of Austria.

The three governments agreed that they were

prepared to examine this question after the entry of the British and American forces into the City of Vienna.

IX

POLAND

The conference considered questions relating to the Polish Provisional Government and the western boundary of Poland.

On the Polish Provisional Government of National Unity they defined their attitude in the following statement:

A—We have taken note with pleasure of the agreement reached among representative Poles from Poland and abroad which has made possible the formation, in accordance with the decision reached at the Crimea Conference, of a Polish Provisional Government of National Unity recognized by the three powers. The establishment by the British and United States Governments of diplomatic relations with the Polish Provisional Government has resulted in the withdrawal of their recognition from the former Polish Government in London, which no longer exists.

The British and United States Governments have taken measures to protect the interest of the Polish Provisional Government as the recognized government of the Polish State in the property belonging to the Polish State located in their territories and under their control, whatever the form of this property may be. They have further taken measures to prevent alienation to third parties of such property. All proper facilities will be given to the Polish Provisional Government for the exercise of the ordinary legal remedies for the recovery of any property belonging to the Polish State which may have been wrongfully alienated.

The three powers are anxious to assist the Polish Provisional Government in facilitating the return to Poland as soon as practicable of all Poles abroad who wish to go, including members of the Polish armed forces and the Merchant Marine. They expect that those Poles who return home shall be accorded personal and property rights on the same basis as all Polish citizens.

The three powers note that the Polish Provisional Government in accordance with the decisions of the Crimea Conference has agreed to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot in which all democratic and

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Nazi parties shall have the right to take part and to put forward candidates, and that representatives of the Allied press shall enjoy full freedom to report to the world upon developments in Poland before and during the elections.

B.—The following agreement was reached on the western frontier of Poland:

In conformity with the agreement on Poland reached at the Crimea Conference the three heads of government have sought the opinion of the Polish Provisional Government of National Unity in regard to the accession of territory in the north and west which Poland should receive. The President of the National Council of Poland and members of the Polish Provisional Government of National Unity have been received at the conference and have fully presented their views. The three heads of government reaffirm their opinion that the final delimitation of the western frontier of Poland should await the peace settlement.

The three heads of government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinemunde, and thence along the Oder River to the confluence of the western Neisse River and along the western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this conference and including the area of the former free City of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.

X

CONCLUSION OF PEACE TREATIES AND ADMISSION TO THE UNITED NATIONS ORGANIZATION.

The conference agreed upon the following statement of common policy for establishing, as soon as possible, the conditions of lasting peace after victory in Europe:

The three governments consider it desirable that the present anomalous position of Italy, Bulgaria, Finland, Hungary and Rumania should be terminated by the conclusion of peace treaties. They trust that the other interested Allied governments will share these views.

For their part the three governments have included the preparation of a peace treaty for Italy as the first among the immediate important tasks to be undertaken by the new Council of Foreign Ministers. Italy was the first of the Axis powers to break with Germany, to whose defeat she has made a material contribution, and has now joined with the Allies in the struggle against Japan. Italy has freed herself from the Fascist regime and is making good progress towards the reestablishment of a democratic government and institutions. The conclusion of such a peace treaty with a recognized and democratic Italian government will make it possible for the three governments to fulfill their desire to support an application from Italy for membership of the United Nations.

The three governments have also charged the Council of Foreign Ministers with the task of preparing peace treaties for Bulgaria, Finland, Hungary and Rumania. The conclusion of peace treaties with recognized democratic governments in these states will also enable the three governments to support applications from them for membership of the United Nations. The three governments agree to examine each separately in the near future, in the light of the conditions then prevailing, the establishment of diplomatic relations with Finland, Rumania, Bulgaria, and Hungary to the extent possible prior to the conclusion of peace treaties with those countries.

The three governments have no doubt that in view of the changed conditions resulting from the termination of the war in Europe, representatives of the Allied press will enjoy full freedom to report to the world upon developments in Rumania, Bulgaria, Hungary and Finland.

As regards the admission of other states into the United Nations Organization, Article 4 of the Charter of the United Nations declares that:

"1. Membership in the United Nations is open to all other peace-loving states who accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations;

"2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council."

The three governments, so far as they are concerned, will support applications for membership from those states which have remained neutral dur-

ing the war and which fulfill the qualifications set out above.

The three governments feel bound however to make it clear that they for their part would not favor any application for membership put forward by the present Spanish Government, which, having been founded with the support of the Axis powers, does not, in view of its origins, its nature, its record and its close association with the aggressor states, possess the qualifications necessary to justify such membership.

XI

TERRITORIAL TRUSTEESHIPS

The conference examined a proposal by the Soviet Government concerning trusteeship territories as defined in the decision of the Crimea Conference and in the Charter of the United Nations Organization.

After an exchange of views on this question it was decided that the disposition of any former Italian territories was one to be decided in connection with the preparation of a peace treaty for Italy and that the question of Italian territory would be considered by the September Council of Ministers of Foreign Affairs.

XII

REVISED ALLIED CONTROL COMMISSION PROCEDURE IN RUMANIA, BULGARIA, AND HUNGARY

The three governments took note that the Soviet representatives on the Allied Control Commissions in Rumania, Bulgaria and Hungary, have communicated to their United Kingdom and United States colleagues proposals for improving the work of the Control Commission, now that hostilities in Europe have ceased.

The three governments agreed that the revision of the procedures of the Allied Control Commissions in these countries would now be undertaken, taking into account the interests and responsibilities of the three governments which together presented the terms of armistice to the respective countries, and accepting as a basis the agreed proposals.

XIII

ORDERLY TRANSFERS OF GERMAN POPULATIONS

The conference reached the following agreement on the removal of Germans from Poland, Czechoslovakia and Hungary:

The three governments having considered the question in all its aspects, recognize that the transfer to Germany of German populations, or elements thereof, remaining in Poland, Czechoslovakia and Hungary, will have to be undertaken. They agree that any transfers that take place should be effected in an orderly and humane manner.

Since the influx of a large number of Germans into Germany would increase the burden already resting on the occupying authorities, they consider that the Allied Control Council in Germany should in the first instance examine the problem with special regard to the question of the equitable distribution of these Germans among the several zones of occupation. They are accordingly instructing their respective representatives on the Control Council to report to their governments as soon as possible the extent to which such persons have already entered Germany from Poland, Czechoslovakia and Hungary, and to submit an estimate of the time and rate at which further transfers could be carried out, having regard to the present situation in Germany.

The Czechoslovak Government, the Polish Provisional Government and the Control Council in Hungary are at the same time being informed of the above, and are being requested meanwhile to suspend further expulsions pending the examination by the governments concerned of the reports from their representatives on the Control Council.

XIV

MILITARY TALKS

During the conference there were meetings between the Chiefs of Staff of the three governments on military matters of common interest.

Approved:

J. V. STALIN
HARRY S. TRUMAN
C. R. ATTLEE.

LIST OF DELEGATIONS

FOR THE UNITED STATES

The President, HARRY S. TRUMAN
The Secretary of State, JAMES F. BYRNES
Fleet Admiral WILLIAM D. LEAHY, U.S.N., Chief of Staff to the President
JOSEPH E. DAVIES, Special Ambassador
EDWIN PAULEY, Special Ambassador
Ambassador ROBERT D. MURPHY, Political Adviser to the President
Commander-in-Chief, United States Zone in Germany

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W. AVERELL HARRIMAN, Ambassador to the U.S.S.R.
 General of the Army, GEORGE C. MARSHALL, Chief of Staff,
 United States Army
 Fleet Admiral ERNEST J. KING, U.S.N., Chief of Naval
 Operations and Commander in Chief, U.S. Fleet
 General of the Army, H. H. ARNOLD, U.S. Army Air Forces
 General BREHON S. SOMERVELL, Commanding General,
 Army Service Forces
 Vice Admiral EMOBY S. LAND, War Shipping Administra-

tor
 WILLIAM L. CLAYTON, Assistant Secretary of State
 JAMES C. DUNN, Assistant Secretary of State
 BEN COHEN, Special Assistant to the Secretary of State
 H. FREEMAN MATTHEWS, Director of European Affairs, De-
 partment of State
 CHARLES E. BOHLEN, Assistant to the Secretary, (together
 with political, military and technical advisers).

FOR THE UNITED KINGDOM

The Prime Minister, Mr. WINSTON S. CHURCHILL, M. P.;
 Mr. C. R. ATTLEE, M. P.
 The Secretary of State for Foreign Affairs,
 Mr. ANTHONY EDEN, M. P.
 Mr. ERNEST BEVIN, M. P.

LORD LEATHERS, Minister of War Transport
 Sir ALEXANDER CADOGAN, Permanent Under Secretary of
 State for Foreign Affairs

Sir ARCHIBALD CLARK KERR, H.M. Ambassador at Moscow
 Sir WALTER MONCKTON, Head of the United Kingdom
 Delegation to Moscow Reparations Commission

Sir WILLIAM STRANG, Political Adviser to the Commander-
 in-Chief, British Zone in Germany

Sir EDWARD BRIDGES, Secretary of the Cabinet

Field Marshal Sir ALAN BROOKE, Chief of the Imperial
 General Staff

Marshal of the Royal Air Force, Sir CHARLES PORTAL,
 Chief of the Air Staff

Admiral of the Fleet, Sir ANDREW CUNNINGHAM, First Sea
 Lord

General Sir HASTINGS ISMAY, Chief of Staff to the Min-
 ister of Defence

Field Marshal Sir HAROLD ALEXANDER, Supreme Allied
 Commander, Mediterranean Theatre
 Field Marshal Sir HENRY MAITLAND WILSON, Head of the
 British Joint Staff Mission at Washington
 and other advisers.

FOR THE SOVIET UNION

The Chairman of the Council of People's Commissars,
 J. V. STALIN

People's Commissar for Foreign Affairs, V. M. MOLOTOV
 Fleet Admiral N. G. KUZNETSOV, People's Commissar, the
 Naval Fleet of the U.S.S.R.

A. I. ANTONOV, Chief of Staff of the Red Army

A. YA VYSHINSKI, Deputy People's Commissar for Foreign
 Affairs

S. I. KAVTARADZE, Assistant People's Commissar for For-
 eign Affairs

I. M. MAISKY, Assistant People's Commissar for Foreign
 Affairs

Admiral S. G. KUCHEROV, Chief of Staff of the Naval
 Fleet

F. T. GUSEV, Ambassador of the Soviet Union in Great
 Britain

A. A. GROMYKO, Ambassador of the Soviet Union in the
 United States of America

K. V. NOVIKOV, Member of the Collegium of the Commis-
 sariat for Foreign Affairs, Director of the Second
 European Division

S. K. TSARAPKIN, Member of the Collegium of the Com-
 missariat for Foreign Affairs, Director of the United
 States Division

S. P. KOZYREV, Director of the First European Division
 of the Commissariat for Foreign Affairs

A. A. LAVRISHCHEV, Director of the Division of Balkan
 Countries, Commissariat for Foreign Affairs

A. A. SOBOLEV, Chief of the Political Section of the Soviet
 Military Administration in Germany

I. Z. SABUROV, Assistant to the Chief of the Soviet Mil-
 itary Administration in Germany

A. A. GOLUNSKY, Expert consultant of the Commissariat
 for Foreign Affairs

and also political, military, and technical assistants.

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A Year of Potsdam

A year ago Germany surrendered. At Potsdam the Big Three decreed that never again would Germany menace the peace of the world.

Now Germany has been disarmed. Her army, the famous Wehrmacht, has been smashed into bits. Her air force--Goering's pride--has been destroyed. Her navy has been broken up. Germany is also being disarmed industrially. High explosive plants have been blown up. I. G. Farben, the world's biggest cartel, has been seized; its top management has been jailed; some of its many plants have been destroyed, some offered for reparations, and all put under separate control.

The Allied Control Authority has approved the Plan for Reparations--actually a plan for industrial disarmament. While somewhat more than half of Germany's total pre-war industry will remain, only one-third of the heavy industry which made the steel, the big guns and the tanks for Hitler's war of aggression will be left. Germany is being demilitarized, denazified and deindustrialized.

Today Germany, like much of Europe, is hungry. Physical deterioration from slow starvation has begun. Coal is short. A second winter with little heat lies ahead. These shortages exist not because of reparation removals but because those industries which are to remain in Germany cannot yet be revived. Germany is paying a heavy price for the destruction she brought on herself. But the fear in Germany today goes deeper than hunger and cold. It is the fear of continued economic paralysis--the fear of the continued separation of Germany into four parts. For a year now Germany has been virtually cut into four Zones of Occupation--with the Zone borders not merely military lines, but almost air-tight economic boundaries which prevent the free flow of food and industrial products on which a nation's economic life depends.

The Potsdam Agreement stated categorically that Germany would operate as an economic unit. The Reparations Plan was based on the principle, and so stated. The plan provided that enough industry was to remain to permit Germany a tolerable standard of living. But this could only be true if German resources were freely available throughout Germany, and if the proceeds of German exports could pay for food and other necessary imports for Germany as a whole.

So far this part of Potsdam has not been made effective. Until boundary questions are settled, and the area that is to be the future Germany becomes one economic unit, the individual parts can never become self-supporting. So far very little progress can be reported toward the formation of the German administrative agencies agreed at Potsdam as necessary to operate Germany as an economic whole. There is no German government today.

The U. S. Zone depends historically on coal and steel from the British Zone, on food and seeds from the Soviet Zone, on fertilizer and tin plate from the French Zone. Today the United States is spending perhaps two hundred million dollars a year--over a half million dollars a day--to prevent starvation, disease and unrest in the U. S. Zone. Without free trade with other parts of Germany, and without a common export program, the U. S. Zone can not pay its own way.

The issue is clear. If Germany is to support herself the Potsdam Agreement must be made effective. The status of the Saar and the Ruhr must be finally determined and any necessary changes in the Reparations Plan made. But the future Germany must be allowed to operate as an economic unit. Otherwise it is obvious that the Reparations Plan and the industrial disarmament of Germany cannot become effective as now planned, because the four Zones cannot exist separately with that amount of industry removed. The U. S. Delegation has therefore advised the other Occupying Powers that until the situation is clarified, no reparations

plants other than the few agreed for advance deliveries will be dismantled. The U. S. position on reparations remains unchanged. When the boundaries of the future Germany are determined and she begins to operate as one country, industrial disarmament can proceed and a large share of her industrial plants, machinery and equipment can go in reparations to the countries ravaged by Germany.

At Paris, a year after Potsdam, the Council of Foreign Ministers, debated the issue. Our Secretary of State urged that the Potsdam agreement be made effective as a whole, that Germany be disarmed in both a military and industrial sense, that reparation be made to the devastated countries, that central German administrative agencies be created and that Germany be treated as a single economic unit.

However, no agreement was reached. The U. S. Delegation then offered to join the economy of our Zone of occupation with any one or more of the other zones. This would break down some at least of the economic borders now choking the economy. The intention is not to divide Germany, but to bring about the economic unity called for by Potsdam as rapidly as possible. General McNarney, the U. S. Zone Commander, has officially confirmed our Government's offer to the three other occupying powers at a meeting of the Allied Control Council.

A year of Potsdam has clarified the issue. Potsdam must be carried out as a whole or it must be revised.

Brigadier General WILLIAM H. DRAPER, JR.
Director, Economics Division
Office of Military Government

3

Reparations and the Future Level of German Industry

With the approval by the Control Council on March 26, 1946, of "THE PLAN FOR REPARATIONS AND THE LEVEL OF POST-WAR GERMAN ECONOMY IN ACCORDANCE WITH THE BERLIN PROTOCOL," eight months of intensive study and negotiations by the occupying powers were successfully concluded. The plan, seventeen pages in length, is the basis for specific determination of the nature and amount of industrial equipment to be removed as reparations. It is the first major step toward implementation of those provisions of the Berlin Protocol which impose controls upon the German economy to the extent necessary to "carry out programs of industrial disarmament and demilitarization, of reparations, and of approved exports and imports."

The plan as finally approved is first of all a guide to industrial disarmament to assure, in the words of the Berlin Protocol "that Germany never again will threaten her neighbors or the peace of the world." Reparations are a part of industrial disarmament--of the process of eliminating industry not necessary to the maintenance of a German standard of living "not exceeding the average of standards of living of European countries," excluding the U. K. and the U. S. S. R., but sufficient "to enable the German people to subsist without external assistance." With these principles before them, the experts were confronted with two apparently irreconcilable facts. Nearly all industry supports modern war, but it also supports people. With her present territory and population, Germany cannot subsist without large imports, particularly of food, and exports of industrial products are the only known source of payment--unless the occupying powers make gifts. The history of the reparations plan is essentially the history of an effort by quadripartite study and negotiation to strike a balance between the requirements of economic disarmament and of self-support.

Standard of Living Board

The United States' contribution to the solution of this problem began with the organization of the German Standard of Living Board to frame preliminary recommendations concerning future production levels. The Board's report commonly referred to as the Hoover Report in honor of the Board's Chairman, Dr. C. B. Hoover, was published on 21 September 1945 and was introduced into the Quadripartite machinery as a basis for discussion.

Other overall plans were submitted by the British, French and Soviet delegations in January and February, 1946, and a second U. S. Memorandum, prepared under the direction of Dr. B. U. Ratchford, was presented officially as the American position to the Economic Directorate on 29 January 1946. The final plan as approved by the Control Council embodied work of all the delegations modified by quadripartite reconciliation of the differing viewpoints reflected in the several reports.

To facilitate the preparation of a plan acceptable to all occupying powers, the Economic Directorate agreed on 15 August 1945 to organize the Level of Industry Committee. At its first meeting on 17 September 1945 this committee created a Technical Staff to operate as a Working Party of economists. During the six months between the date of its organization and preparation of the Economic Directorate's draft plan, the LOIC and Technical Staff held sixty-four meetings in an effort to develop and agree upon the hundreds of separate questions requiring answers. Some issues were not resolved until 8 March 1946 when the Control Council accepted a complete set of proposals subject to final approval by the several governments.

The plan rests on four major assumptions:

Germany will consist of the present German territory lying between the Oder-Neisse line and the present western boundaries.

The population within these boundaries will be 66,500,000 in the target year 1949.

Exports will encounter no special discriminations in foreign markets.

Germany will be treated as an economic unit in accordance with the Berlin Protocol.

Zonal Authority Unworkable

The importance of these assumptions is apparent. Placing Germany's eastern boundary on the Oder-Neisse line eliminated about 25 percent of the former Reich's agricultural resources, but did not greatly affect total population, since the anticipated immigration of Germans not permitted to remain on foreign soil is expected to offset the loss. If substantial changes should be made in Germany's western boundaries, industry important to the whole of Germany would be affected, thus necessitating revision of permitted production levels in the remaining Reich territory. Similarly, if the population proves to be greater than 66,500,000, necessary imports of food and raw materials will require higher levels of production, both for export and for domestic consumption. The salability of German exports is a critical assumption. If it is in error, the problem of German self-support will be almost insoluble. Finally, since the plan is intended to apply to the whole of Germany, zonal autonomy in such matters as reparations removals and trade would make the plan unworkable.

With these assumptions as a starting point, the economists were confronted with the problem of estimating requirements for major consumer goods, such as food and clothing; the kind and amount of exports necessary to balance imports:

and the amount of basis production in mining, metallurgy, machinery, chemistry, and electric power necessary to support estimated consumption and export levels. And this had to be consistent with a maximum reduction in war potential, on the one hand, and the encouragement of agriculture and peaceful industries on the other. The resulting pattern of restricted and unrestricted industries is obviously not the only possible answer, but it is one answer to an extremely complex problem. Most important, it is an answer that was acceptable to the Four Powers.

The plan as written begins with the specific disarmament features of the Berlin Protocol--elimination of the production of arms, ammunition and implements of war, as well as all types of aircraft and seagoing ships. In addition to these prohibitions the plan states that all industrial capital equipment for the production of fourteen specific items of critical military importance will be eliminated. These items include synthetic rubber, gasoline, and ammonia; ball and taper roller bearings; heavy machine tools of certain types; heavy tractors; aluminum (primary), magnesium, beryllium, and vanadium (from Thomas Slag); radioactive materials; radio transmitting equipment; and specific chemical products. The elimination of domestic production of the first four items is contingent upon the availability of imports and the means of payment. Thus, by striking out items of critical military importance not essential to the German peacetime economy, the first step toward industrial disarmament is achieved.

Certain other industries, primarily the metallurgical, machinery, and chemical industries, are necessary to both war and peace. It was necessary, therefore, to restrict such production to amounts no more than enough to support the prescribed standard of living. Ingot steel capacity is thus reduced to 7.5 million metric tons, or to 39 percent of 1936 production, and annual production was limited to 5.8 million tons until otherwise determined by the Control Council. Similarly, drastic restrictions have been placed upon the production of such non-ferrous metals as copper, zinc, lead, tin, nickel, aluminum, and magnesium. Only reclaimed aluminum will be produced domestically, and a limited amount of magnesium will be imported.

Restrictions on the mechanical and electrical engineering industries differ in the several branches depending upon relative military significance. Thus machine tool capacity is to be reduced to 11.4% of total 1938 value, and such tools will be limited as to size and type by the Allied Control Authority. Heavy mechanical engineering is reduced to 31% and light mechanical engineering, consisting mainly of machinery production for the consumer goods, to 50% of total 1938 value. The production of private motor cars has been reduced to 16% of 1936 production. In the field of electrical engineering heavy types of equipment are limited to 30 percent, within an overall limitation for the entire electrical industry, of 50 percent of total 1938 value. In this way Germany's capacity to produce those types of equipment which heretofore have been converted to the production of armaments will be reduced to the level necessary to support a minimum peace economy.

The chemical industry, a third major source of supply in a modern war economy, has been cut back to preclude the diversion of facilities to military production. The basic chemicals, nitrogen, calcium, carbide, sulphuric acid, chlorine and alkali, have been reduced to 40 percent of total 1936 capacities. Considering the fact that these basic chemicals include those required for fertilizers, this reduction is extremely severe. Certain other chemicals, notably pharmaceuticals and dyestuffs, have not been so sharply reduced because of the necessity for allowing sufficient exports to pay for imports.

Two other industrial restrictions are notable. Installed capacity for the production of electric power is reduced from more than 15 billion KW in 1936 to 9 billion KW in 1949, or 40 percent below 1936. Such a limitation on generating capacity is expected to be an effective deterrent to expansion of such war potential industries as electro-metallurgy and chemicals. Cement is the only building

material included in the restricted list, but it is also the most important. Production capacity is reduced to 68 percent of 1936 production.

The industries already described are expected to yield the bulk of anticipated deliveries of industrial equipment on reparations account. Such equipment will constitute the difference between existing capacity and the amount required to meet the prescribed production levels.

Two other groups of industries are included in the plan, but are not expected to provide reparations. The first of these groups includes coal mining, railroad rolling stock production, agricultural machinery, textiles, rubber (natural and reclaimed), paper, and boots and shoes. Levels for these industries are fixed or estimated, and although they are not expected to yield reparations, the possibilities of exacting reparations are not excluded if the Control Council decides that there are surplus capacities suitable for reparations. The second group of industries includes building and building materials (except cement), furniture and woodworking; flat glass, bottle and domestic glass; ceramics; bicycles; small motorcycles and potash. No levels have been set for these industries, and they are "free to develop within the limits of available material and financial resources."

These are the major features of the plan. It starts by eliminating production essential to a war, but not necessary to a peace economy. Then it cuts deeply into industries which are major supports for war, but necessary to the maintenance of peaceful production. Finally, in accordance with the policy of encouraging peaceful industries, it allows a wide range of freedom for peaceful industries to develop.

Balance of Payments

One other feature of the plan merits discussion--the balance of payments. The ultimate balancing of imports and exports is essential to self-support in Germany. Without sufficient exports to balance necessary imports, there is danger that import deficits will continue to be a drain on the treasuries of the occupying powers. The plan states that approved imports will not exceed RM 3 billion, and exports totaling, RM 3 billion at 1936 prices will be provided for in the industry levels. Of the total proceeds from exports, not more than RM 1.5 billion will be spent for food and fodder. Any portion of this amount not needed for food and fodder will be used to pay for occupation costs and other charges.

The total food import bill is a little larger than the 1936 bill, and amounts to 50 percent of the total imports for 1949. Considering the fact that Germany will be supporting a population equal to, or even greater than, the 1936 population without the highly productive area east of the Oder-Neisse line, the import allowance will not support a very luxurious diet. Estimates indicate a per capita calorie consumption of about 2700 per day, a large proportion of which will consist of grain and potatoes rather than the more expensive meats and fats. It is not assumed that minute control will be exercised over the German diet, but lack of internal agricultural resources and export capacities will compel the Germans to rely heavily on inexpensive high-calory foods.

While estimated total imports in the target year 1949 will be nearly 30 percent less and exports 38 percent less than in 1936, the changed composition of imports and exports illustrates better than do the total figures the effect of the plan on the German economy. Among the imports, for example, those items which will not be produced domestically when it is physically and financially possible to import them--ball and taper roller bearings, synthetic gasoline and oil, nitrogen fertilizer (from synthetic ammonia) and rubber--will cost almost twice as much as the same items in 1936, and will amount to 14 percent of the total import bill as compared with 5 percent in 1936. Raw materials, on the other hand, will amount to only 41 percent, and miscellaneous imports 35 percent,

of 1936 expenditures for the same items.

Exports, even more than imports, reflect the effects of economic demilitarization. Exports of metal products--machinery, electrical equipment, optics and precision instruments, and non-ferrous metal goods--are reduced to 37 percent, and chemical products to 42 percent, of 1936 exports. In line with the policy of encouraging peaceful industries, emphasis is placed on exports of products from natural resources and light manufacturing industries. Exports of coal, coke, and potash are estimated at 122 percent, and consumer goods--leather, textiles, glass, ceramics, paper, etc.--at 109 percent of 1936 exports. Thus Germany is almost excluded from export fields in which she was preeminent prior to the war--metallurgy, engineering, and chemicals--and turned toward the production of consumer's goods.

It is estimated that the general effect of the plan is to reduce the level of industry as a whole (excluding building and building materials industries) to about 50 or 55 percent of the 1938 level. It is not now possible to translate this figure into an estimate of average consumer income. The real effect upon the German standard of living, therefore, is not too clear. It will depend, in part, upon the manner in which the occupying powers deal with the planned removal problem. If industry in general is too badly disorganized in the removal process, the achievement of permitted and estimated levels in 1949 will be made more difficult. Long-range results will be influenced even more by the ability of the German people to reorganize industry and to find new methods of achieving economic utilization of remaining industrial resources. The speed of the anticipated gradual recovery from present emergency levels of industrial production will depend to a large degree on food and coal availabilities, and the degree to which interzonal and export trade and financial problems are handled for Germany as a whole. The location, character, and volume of employment opportunities will be greatly changed after the plant removal period, and the maintenance of a reasonable level of consumer income will depend upon the extent to which unrestricted industries can be expanded and the labor force adjusted to the new pattern of industry.

The plan is only a first step toward solution of the reparations problem. It is not a document for the long-range control of Germany and should not therefore be regarded as a complete answer to the problem of the German industrial war potential. The lasting controls over German industry will probably be written into the future peace treaty. Indeed, the plan itself may, in the light of experience, require revision either because the basic assumptions prove to have been unwarranted or because the parts do not balance. It would be almost a miracle if it were not faulty at least to some degree, considering the fact that it represents quadripartite planning and compromise. The real achievement lies in the fact that a plan has been developed and agreed on by the four occupying powers.

From "A Year of Potsdam," pp. 23-33.

Docs on Germ under Occupation
Ed. by Beate Ruhm von Oppen.

8 DOCUMENTS ON GERMANY UNDER OCCUPATION, 1945-54

occasions l'importance primordiale qu'il attache à ce que la région rhéno-westphalienne ne puisse plus dans l'avenir constituer pour l'Allemagne un arsenal, une zone de passage ou un point de départ pour attaquer ses voisins occidentaux. Il considère que la séparation définitive de cette région, Ruhr comprise, d'avec l'Allemagne, indispensable pour la couverture de la frontière française, constitue en outre la condition essentielle de la sécurité de l'Europe et du monde. Il estime donc nécessaire, si des administrations centrales allemandes doivent être établies, qu'il soit en même temps spécifié que la région rhéno-westphalienne sera soustraite à leur compétence.

Étant donné l'importance que présente pour l'Europe et pour le monde le problème allemand, la Délégation française se serait attendue à ce que ce problème figurât en première place à l'ordre du jour de la première réunion du Conseil des cinq Ministres des Affaires étrangères. Étant donné l'abondance des sujets inscrits à cet agenda, elle ne se propose pas d'insister pour que l'ensemble de ce problème ou seulement celui du sort particulier à réserver à la région rhéno-westphalienne soit discuté dès la première session. Elle doit déclarer toutefois que le représentant français au Comité de contrôle interallié de Berlin ne sera pas autorisé à souscrire à une mesure préjugant ce sort avant que la question ci-dessus posée ait été débattue par les cinq ministres et ait fait l'objet d'une décision du Conseil.

CONTROL COUNCIL PROCLAMATION NO. 2: CERTAIN ADDITIONAL REQUIREMENTS IMPOSED ON GERMANY

20 September 1945

CG, Official Gazette, No. 1, 29 October 1945, p. 8

To the people of Germany:

We, the Allied Representatives, Commanders-in-Chief of the forces of occupation of the United Kingdom, the United States of America, the Union of Soviet Socialist Republics and the French Republic, pursuant to the Declaration regarding the defeat of Germany, signed at Berlin on 5 June 1945, hereby announce certain additional requirements arising from the complete defeat and unconditional surrender of Germany with which Germany must comply, (in so far as these have not already been fulfilled), as follows:

SECTION I

1. All German land, naval and air forces, the SS, SA, SD and Gestapo, with all their organizations, staffs and institutions, including the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans' organizations and all other military and quasi-military organizations, and all other military and quasi-military organizations which serve to keep alive the

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Sept 20,
1945

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military tradition in Germany, shall be completely and finally abolished in accordance with methods and procedures to be laid down by the Allied Representatives.

2. All forms of military training, military propaganda and military activities of whatever nature, on the part of the German people, are prohibited, as well as the formation of any organization initiated to further any aspect of military training and the formation of war veterans' organizations or other groups which might develop military characteristics or which are designed to carry on the German military tradition, whether such organizations or groups purport to be political, educational, religious, social, athletic or recreational or of any other nature.

SECTION II

3 (a) German authorities and officials in all territories outside the frontiers of Germany as they existed on 31 December 1937, and in any areas within those frontiers indicated at any time by the Allied Representatives, will comply with such instructions as to withdrawing therefrom as they may receive from the Allied Representatives.

(b) The German authorities will issue the necessary instructions and will make the necessary arrangements for the reception and maintenance in Germany of all German civilian inhabitants of the territories or areas concerned, whose evacuation may be ordered by the Allied Representatives.

(c) Withdrawals and evacuations under sub-paragraphs (a) and (b) above will take place at such times and under such conditions as the Allied Representatives may direct.

4. In the territories and areas referred to in paragraph 3 above, there shall immediately be, on the part of all forces under German command and of German authorities and civilians, a complete cessation of all measures of coercion or forced labour and of all measures involving injury to life or limb. There shall similarly cease all measures of requisitioning, seizure, removal, concealment or destruction of property. In particular, the withdrawals and evacuations mentioned in paragraph 3 above will be carried out without damage to or removal of persons or property not affected by the orders of the Allied Representatives. The Allied Representatives will determine what personal property and effects may be taken by persons evacuated under paragraph 3 above.

SECTION III

5. The Allied Representatives will regulate all matters affecting Germany's relations with other countries. No foreign obligations, undertakings or commitments of any kind will be assumed or entered into by

on behalf of German authorities or nationals without the sanction of the Allied Representatives.

6. The Allied Representatives will give directions concerning the abrogation, bringing into force, revival or application of any treaty, convention or other international agreement, or any part or provision thereof, to which Germany is or has been a party.

7 (a) In virtue of the unconditional surrender of Germany, and as of the date of such surrender, the diplomatic, consular, commercial and other relations of the German State with other States have ceased to exist.

(b) Diplomatic, consular, commercial and other officials and members of service missions in Germany of countries at war with any of the four Powers will be dealt with as the Allied Representatives may prescribe. The Allied Representatives may require the withdrawal from Germany of neutral diplomatic, consular, commercial and other officials and members of neutral service missions.

(c) All German diplomatic, consular, commercial and other officials and members of German service missions abroad are hereby recalled. The control and disposal of the buildings, property and archives of all German diplomatic and other agencies abroad will be prescribed by the Allied Representatives.

8 (a) German nationals will, pending further instructions, be prevented from leaving German territory except as authorized or directed by the Allied Representatives.

(b) German authorities and nationals will comply with any directions issued by the Allied Representatives for the recall of German nationals resident abroad, and for the reception in Germany of any persons whom the Allied Representatives may designate.

9. The German authorities and people will take all appropriate steps to ensure the safety, maintenance and welfare of persons not of German nationality and of their property and of the property of foreign States.

SECTION IV

10. The German authorities will place at the disposal of the Allied Representatives the whole of the German intercommunication system (including all military and civilian postal and telecommunication systems and facilities and connected matters), and will comply with any instructions given by the Allied Representatives for placing such intercommunication systems under the complete control of the Allied Representatives. The German authorities will comply with any instructions given by the Allied Representatives with a view to the establishment by the Allied Representatives of such censorship and control of postal and telecommuni-

otherwise conveyed and of all other forms of intercommunication as the Allied Representatives may think fit.

11. The German authorities will comply with all directions which the Allied Representatives may give regarding the use, control and censorship of all media for influencing expression and opinion, including broadcasting, press and publications, advertising, films and public performances, entertainments and exhibitions of all kinds.

SECTION V

12. The Allied Representatives will exercise such control as they deem necessary over all or any part or aspect of German finance, agriculture (including forestry), production and mining, public utilities, industry, trade, distribution and economy generally, internal and external, and over all related or ancillary matters, including the direction or prohibition of the manufacture, production, construction, treatment, use and disposal of any buildings, establishments, installations, public or private works, plant, equipment, products, materials, stocks or resources. Detailed statements of the subjects to which the present provision applies, together with the requirements of the Allied Representatives in regard thereto, will from time to time be communicated to the German authorities.

13 (a) The manufacture, production and construction, and the acquisition from outside Germany, of war material and of such other products used in connection with such manufacture, production or construction, as the Allied Representatives may specify, and the import, export and transit thereof, are prohibited, except as directed by the Allied Representatives.

(b) The German authorities will immediately place at the disposal of the Allied Representatives all research, experiment, development and design directly or indirectly relating to war or the production of war material, whether in government or private establishments, factories, technological institutions or elsewhere.

14 (a) The property, assets, rights, titles and interests (whether situated inside or outside Germany) of the German State, its political subdivisions, the German Central Bank, State or semi-State, provincial, municipal or local authorities or Nazi organizations, and those situated outside Germany of any person resident or carrying on business in Germany, will not be disposed of in any way whatever without the sanction of the Allied Representatives. The property, assets, rights, titles and interests (whether situated inside or outside Germany), of such private companies, corporations, trusts, cartels, firms, partnerships and associations as may be designated by the Allied Representatives will not be disposed of in any way whatever without the sanction of the Allied Representatives.

(b) The German authorities will furnish full information about the

property, assets, rights, titles and interests referred to in sub-paragraph (a) above and will comply with such directions as the Allied Representatives may give as to their transfer and disposal. Without prejudice to any further demands which may be made in this connection, the German authorities will hold at the disposal of the Allied Representatives for delivery to them at such times and places as they may direct all securities, certificates, deeds or other documents of title held by any of the institutions or bodies mentioned in sub-paragraph (a) above or by any person subject to German Law, and relating to property, assets, rights, titles and interests situated in the territories of the United Nations, including any shares, stocks, debentures or other obligations of any company incorporated in accordance with the laws of any of the United Nations.

(c) Property, assets, rights, titles and interests situated inside Germany will not be removed outside Germany or be transferred or disposed of to any person resident or carrying on business outside Germany without the sanction of the Allied Representatives.

(d) Nothing in sub-paragraphs (a) and (b) above shall, as regards property, assets, rights, titles and interests situated inside Germany, be deemed to prevent sales or transfers to persons resident in Germany for the purpose of maintaining or carrying on the day-to-day national life, economy and administration, subject to the provision of sub-paragraphs 19 (b) and (c) below and to the provisions of the Declaration or of any proclamations, orders, ordinances or instructions issued thereunder.

15 (a) The German authorities and all persons in Germany will hand over to the Allied Representatives all gold and silver, in coin or bullion form, and all platinum in bullion form, situated in Germany, and all such coin and bullion situated outside Germany as is possessed by or held on behalf of any of the institutions or bodies mentioned in sub-paragraph 14 (a) above or any person resident or carrying on business in Germany.

(b) The German authorities and all persons in Germany will hand over in full to the Allied Representatives all foreign notes and coins in the possession of any German authority, or of any corporation, association or individual resident or carrying on business in Germany, and all monetary tokens issued or prepared for issue by Germany in the territories formerly occupied by her or elsewhere.

16 (a) All property, assets, rights, titles and interests in Germany held for or belonging to any country against which any of the United Nations is carrying on hostilities, or held for or belonging to the nationals of any such country, or of any persons resident or carrying on business therein, will be taken under control and will be preserved pending further instructions.

(b) All property, assets, rights, titles and interests in Germany held for or belonging to private individuals, private enterprises and companies of

those countries, other than Germany and the countries referred to in sub-paragraph (a) above, which have at any time since 1 September 1939 been at war with any of the United Nations, will be taken under control and will be preserved pending further instructions.

(c) The German authorities will take all necessary steps to ensure the execution of the provisions of sub-paragraphs (a) and (b) above, will comply with any instructions given by the Allied Representatives for that purpose, and will afford all necessary information and facilities in connection therewith.

17 (a) There shall, on the part of the German authorities and people, be no concealment, destruction, scuttling or dismantling of, removal or transfer of, nor damage to, ships, transport, ports or harbours, nor to any form of building, establishment, installation, device, means of production, supply, distribution or communication, plant, equipment, currency, stocks or resources, or, in general, public or private works, utilities or facilities of any kind, wherever situated.

(b) There shall be no destruction, removal, concealment, suppression or alteration of any documents, records, patents, drawings, specifications, plans or information, of any nature, affected by the provisions of this document. They shall be kept intact in their present locations until further directions are given. The German authorities will afford all information and facilities as required by the Allied Representatives in connection therewith.

(c) Any measures already ordered, undertaken, or begun contrary to the provisions of sub-paragraphs (a) and (b) above will be immediately countermanded or discontinued. All stocks, equipment, plant, records, patents, documents, drawings, specifications, plans or other material already concealed within or outside Germany will forthwith be declared, and will be dealt with as the Allied Representatives may direct.

(d) Subject to the provisions of the Declaration or any proclamations, orders, ordinances or instructions issued thereunder, the German authorities and people will be responsible for the preservation, safeguarding and upkeep of all forms of property and materials affected by any of the said provisions.

(e) All transport materials, stores, equipment, plant, establishments, installations, devices and property generally, which are liable to be surrendered or delivered under the Declaration or any proclamations, orders, ordinances or instructions issued thereunder, will be handed over intact and in good condition, or subject only to ordinary wear and tear and to any damage caused during the continuance of hostilities which it has proved impossible to make good.

18. There shall be no financial, commercial or other intercourse with, or dealings with or for the benefit of, countries at war with any of the

SECTION VI

19 (a) The German authorities will carry out, for the benefit of the United Nations, such measures of restitution, reinstatement, restoration, reparation, reconstruction, relief and rehabilitation as the Allied Representatives may prescribe. For these purposes the German authorities will effect or procure the surrender or transfer of such property, assets, rights, titles and interests, effect such deliveries and carry out such repair, building and construction work, whether in Germany or elsewhere, and will provide such transport, plant, equipment and materials of all kinds, labour, personnel, and specialist and other services, for use in Germany or elsewhere, as the Allied Representatives may direct.

(b) The German authorities will also comply with all such directions as the Allied Representatives may give relating to property, assets, rights, titles and interests located in Germany belonging to any one of the United Nations or its nationals or having so belonged at, or at any time since, the outbreak of war between Germany and that nation, or since the occupation of any part of its territories by Germany. The German authorities will be responsible for safeguarding, maintaining, and preventing the dissipation of all such property, assets, rights, titles and interests, and for handing them over intact at the demand of the Allied Representatives. For these purposes the German authorities will afford all information and facilities required for tracing any property, assets, rights, titles or interests.

(c) All persons in Germany in whose possession such property, assets, rights, titles and interests may be, shall be personally responsible for reporting them and for safeguarding them until they are handed over in such manner as may be prescribed.

20. The German authorities will supply free of cost such German currency as the Allied Representatives may require, and will withdraw and redeem in German currency, within such time limits and on such terms as the Allied Representatives may specify, all holdings in German territory of currencies issued by the Allied Representatives during military operations or occupation, and will hand over the currencies so withdrawn free of cost to the Allied Representatives.

21. The German authorities will comply with all such directions as may be issued by the Allied Representatives for defraying the costs of the provisioning, maintenance, pay, accommodation and transport of the forces and agencies stationed in Germany by authority of the Allied Representatives, the costs of executing the requirements of unconditional surrender, and payment for any relief in whatever form it may be provided by the United Nations.

22. The Allied Representatives will take and make unrestricted use (whether inside or outside Germany) of any articles referred to in paragraph 12 above which the Allied Representatives may require in connection with the conduct of hostilities against any country with which any of their respective Governments is at war.

SECTION VII

23 (a) No merchant ship, including fishing or other craft, shall put to sea from any German port except as may be sanctioned or directed by the Allied Representatives. German ships in ports outside Germany shall remain in port and those at sea shall proceed to the nearest German or United Nations port and there remain, pending instructions from the Allied Representatives.

(b) All German merchant shipping, including tonnage under construction or repair, will be made available to the Allied Representatives for such use and on such terms as they may prescribe.

(c) Foreign merchant shipping in German service or under German control will likewise be made available to the Allied Representatives for such use and on such terms as they may prescribe. In the case of such foreign merchant vessels which are of neutral registration, the German authorities will take all such steps as may be required by the Allied Representatives to transfer or cause to be transferred to the Allied Representatives all rights relative thereto.

(d) All transfer to any other flag, service or control, of the vessels covered by sub-paragraphs (b) and (c) above is prohibited, except as may be directed by the Allied Representatives.

24. Any existing options to repurchase or reacquire or to resume control of vessels sold or otherwise transferred or chartered by Germany during the war will be exercised as directed by the Allied Representatives. Such vessels will be made available for use by the Allied Representatives in the same manner as the vessels covered by sub-paragraphs 23 (b) and (c) above.

25 (a) The crews of all German merchant vessels or merchant vessels in German service or under German control will remain on board and will be maintained by the German authorities pending further instructions from the Allied Representatives regarding their future employment.

(b) Cargoes on board any such vessels will be disposed of in accordance with instructions given to the German authorities by the Allied Representatives.

26 (a) Merchant ships, including fishing and other craft of the United Nations (or of any country which has broken off diplomatic relations with Germany) which are in German hands, wherever such ships may be, will be surrendered to the Allied Representatives, regardless of whether title

has been transferred as the result of prize court proceedings or otherwise. All such ships will be surrendered in good repair and in seaworthy condition in ports and at times to be specified by the Allied Representatives, for disposal as directed by them.

(b) The German authorities will take all such steps as may be directed by the Allied Representatives to effect or complete transfers of title to such ships regardless of whether the title has been transferred as the result of prize court proceedings against such ships in neutral ports.

27. The German authorities will comply with any instructions given by the Allied Representatives for the destruction, dispersal, salvaging, reclamation or raising of wrecked, stranded, derelict or sunken vessels, wherever they may be situated. Such vessels salvaged, reclaimed or raised shall be dealt with as the Allied Representatives direct.

28. The German authorities will place at the unrestricted disposal of the Allied Representatives the entire German shipping, shipbuilding and ship repair industries, and all matters and facilities directly or indirectly relative or ancillary thereto, and will provide the requisite labour and specialist services. The requirements of the Allied Representatives will be specified in instructions which will from time to time be communicated to the German authorities.

SECTION VIII

29. The German authorities will place at the unrestricted disposal of the Allied Representatives the whole of the German inland transport system (road, rail, air and waterways) and all connected material, plant and equipment, and all repair, construction, labour, servicing and running facilities, in accordance with the instructions issued by the Allied Representatives.

30. The production in Germany and the possession, maintenance or operation by Germans of any aircraft of any kind, or any parts thereof, are prohibited.

31. All German rights in international transport bodies or organizations, and in relation to the use of transport and the movement of traffic in other countries and the use in Germany of the transport of other countries, will be exercised in accordance with the directions of the Allied Representatives.

32. All facilities for the generation, transmission and distribution of power, including establishments for the manufacture and repair of such facilities, will be placed under the complete control of the Allied Representatives, to be used for such purposes as they may designate.

SECTION IX

Allied Representatives may give for the regulation of movements of population and for controlling travel or removal on the part of persons in Germany.

34. No persons may leave or enter Germany without a permit issued by the Allied Representatives or on their authority.

35. The German authorities will comply with all such directions as the Allied Representatives may give for the repatriation of persons not of German nationality in or passing through Germany, their property and effects, and for facilitating the movements of refugees and displaced persons.

SECTION X

36. The German authorities will furnish any information and documents and will secure the attendance of any witnesses, required by the Allied Representatives for the trial of:

(a) the principal Nazi leaders as specified by the Allied Representatives and all persons from time to time named or designated by rank, office or employment by the Allied Representatives as being suspected of having committed, ordered or abetted war crimes or analogous offences;

(b) any national of any of the United Nations who is alleged to have committed an offence against his national law and who may at any time be named or designated by rank, office or employment by the Allied Representatives; and will give all other aid and assistance for these purposes.

37. The German authorities will comply with any directions given by the Allied Representatives in regard to the property of any person referred to in sub-paragraphs 36 (a) and (b) above, such as its seizure, custody or surrender.

SECTION XI

38. The National Socialist German Workers' Party (NSDAP) is completely and finally abolished and declared to be illegal.

39. The German authorities will comply promptly with such directions as the Allied Representatives may issue for the abolition of the National Socialist Party and of its subordinate organizations, affiliated associations and supervised organizations, and of all Nazi public institutions created as instruments of Nazi domination, and of such other organizations as may be regarded as a threat to the security of the Allied forces or to international peace, and for prohibiting their revival in any form, for the dismissal and internment of Nazi personnel; for the control and seizure of Nazi property and funds; and for the suppression of Nazi ideology and teaching.

40. The German authorities and German nationals will not allow the existence of...

41. The German authorities will comply with such directions as the Allied Representatives may issue for the repeal of Nazi legislation and for the reform of German law and of the German legal, judicial, administrative, police and educational systems, including the replacement of their personnel.

42 (a) The German authorities will comply with such directions as the Allied Representatives may issue for the rescinding of German legislation involving discrimination on grounds of race, colour, creed, language or political opinions, and for the cancellation of all legal or other disabilities resulting therefrom.

(b) The German authorities will comply with such directions as the Allied Representatives may issue regarding the property, assets, rights, titles and interests of persons affected by legislation involving discrimination on grounds of race, colour, creed, language or political opinions.

43. No person shall be prosecuted or molested by the German authorities or by German nationals on grounds of race, colour, creed, language or political opinions, or on account of any dealings or sympathies with the United Nations, including the performance of any action calculated to facilitate the execution of the Declaration or of any proclamations, orders, ordinances or instructions issued thereunder.

44. In any proceedings before any German Court or authority judicial notice shall be taken of the provisions of the Declaration and of all proclamations, orders, ordinances and instructions issued thereunder, which shall override any provisions of German law inconsistent therewith.

SECTION XII

45. Without prejudice to any specific obligations contained in the provisions of the Declaration or any proclamations, orders, ordinances or instructions issued thereunder, the German authorities and any other person in a position to do so will furnish or cause to be furnished all such information and documents of every kind, public and private, as the Allied Representatives may require.

46. The German authorities will likewise produce for interrogation and employment by the Allied Representatives upon demand any and all persons whose knowledge and experience would be useful to the Allied Representatives.

47. The Allied Representatives will have access at all times to any building, installation, establishment, property or area, and any of the contents thereof, for the purposes of the Declaration or any proclamations, orders, ordinances or instructions issued thereunder, and, in particular, for the purposes of safeguarding, inspecting, copying or obtaining any of the desired documents and information. The German authorities will

give all necessary facilities and assistance for this purpose, including the service of all specialist staff, including archivists.

SECTION XIII

48. In the event of any doubt as to the meaning or interpretation of any term or expression in the Declaration and in any proclamations, orders, ordinances and instructions issued thereunder, the decision of the Allied Representatives shall be final.

Done at Berlin, the 20th day of September 1945.

CONTROL COUNCIL LAW NO. 2, PROVIDING FOR THE TERMINATION AND LIQUIDATION OF THE NAZI ORGANIZATIONS

10 October 1945

CC, Official Gazette, No. 1, 29 October 1945, p. 19

ARTICLE I

1. The National Socialist German Labour Party, its formations, affiliated associations and supervised agencies, including para-military organizations and all other Nazi institutions established as instruments of party domination are hereby abolished and declared illegal.

2. The Nazi organizations enumerated in the attached Appendix, or which may be added, are expressly abolished.

3. The reforming of any of the organizations named herein, whether under the same or different name is forbidden.

ARTICLE II

All real estates, equipments, funds, accounts, records and other property of the organizations abolished by this law are confiscated. Confiscation is carried out by Military Commands; general directives concerning the distribution of the confiscated property are given by the Control Council.

ARTICLE III

Until such time as the property mentioned is actually placed under the control of the Military Commands all officers and other personnel, including administrative officials and others accountable for such property, are held personally responsible for taking any action necessary to preserve intact all such property and for complying with the orders of the Military Commands regarding such property.

ARTICLE IV

Any person violating any provision of this law shall be liable to criminal prosecution.

Done at Berlin, 10 October 1945.

APPENDIX

1. Nationalsozialistische Deutsche Arbeiterpartei
2. Partei-Kanzlei
3. Kanzlei des Führers der NSDAP
4. Auslandsorganisation
5. Volksbund für das Deutschtum im Ausland
6. Volksdeutsche Mittelstelle
7. Parteiamtliche Prüfungskommission zum Schutze des NS-Schrifttums
8. Reichsorganisationsleiter der NSDAP
9. Reichsschatzmeister der NSDAP
10. Beauftragter des Führers für die Überwachung der gesamten geistigen und weltanschaulichen Schulung und Erziehung der NSDAP
11. Reichspropagandaleiter der NSDAP
12. Reichsleiter für die Presse und Zentralverlag der NSDAP (Eher Verlag)
13. Reichspressechef der NSDAP
14. Reichsamt für das Landvolk
15. Hauptamt für Volksgesundheit
16. Hauptamt für Erzieher
17. Hauptamt für Kommunalpolitik
18. Hauptamt für Beamte
19. Beauftragter der NSDAP für alle Volkstumsfragen
20. Rassenpolitisches Amt der NSDAP
21. Amt für Sippenforschung
22. Kolonialpolitisches Amt der NSDAP
23. Aussenpolitisches Amt der NSDAP
24. Reichstagsfraktion der NSDAP
25. Reichsfrauenführung
26. NSD-Ärztebund
27. Hauptamt für Technik
28. NS-Bund Deutscher Technik
29. NS-Lehrerbund
30. Reichsbund der Deutschen Beamten
31. Reichskolonialbund
32. NS-Frauenschaft
33. NS-Reichsbund Deutscher Schwestern
34. Deutsches Frauenwerk
35. Reichsstudentenführung
36. NSD-Studentenbund
37. Deutsche Studentenschaft
38. NSD-Dozentenbund
39. NS-Rechtswahrerbund
40. NS-Altherrenbund der Deutschen Studenten
41. Reichsbund Deutsche Familie
42. Deutsche Arbeitsfront
43. NS-Reichsbund für Leibesübungen
44. NS-Reichskriegerbund

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45. Reichskulturkammer
46. Deutscher Gemeindetag
47. Geheime Staatspolizei
48. Deutsche Jägerschaft
49. Sachverständigenbeirat für Bevölkerungs- und Rassenpolitik
50. Reichsausschuss zum Schutze des Deutschen Blutes
51. Winterhilfswerk
52. Hauptamt für Kriegsopfer
53. NSKOV (NS-Kriegsopferversorgung)
54. SA (Sturmabteilungen), including the SA-Wehrmannschaften
55. SS (Schutzstaffeln), including the Waffen-SS, the SD (Sicherheitsdienst) and all offices combining command over the police and SS
56. NSKK (NS-Kraftfahrerkorps)
57. NSFK (NS-Fliegerkorps)
58. HJ (Hitler-Jugend), including its subsidiary organizations
59. RAD (Reichsarbeitsdienst)
60. OT (Organisation Todt)
61. TENO (Technische Nothilfe)
62. Nationalsozialistische Volkswohlfahrt

CONTROL COUNCIL PROCLAMATION NO. 3: FUNDAMENTAL PRINCIPLES OF JUDICIAL REFORM

20 October 1945

CC, Official Gazette, No. 1, 29 October 1945, p. 6

By the elimination of the Hitler tyranny by the Allied Powers the terrorist system of Nazi Courts has been liquidated. It is necessary to establish a new democratic judicial system based on the achievements of democracy, civilization and justice. The Control Council therefore proclaims the following fundamental principles of judicial reform which shall be applied throughout Germany.

I. EQUALITY BEFORE THE LAW

All persons are equal before the law. No person, whatever his race, nationality or religion, shall be deprived of his legal rights.

II. GUARANTEES OF THE RIGHTS OF THE ACCUSED

1. No person shall be deprived of life, liberty or property without due process of law.
2. Criminal responsibility shall be determined only for offences provided by law.
3. Determination by any court of any crime 'by analogy' or by so called 'sound popular instinct', as heretofore provided in the German Criminal Code is prohibited.

PROPERTY CONTROL

Law No. 5
Allied Control Council

Oct. 30, 1945

ANNEX XVI

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

LAW NO. 5

Vesting and Marshalling of German External Assets

Whereas the Control Council is determined to assume control of all German assets abroad and to divest the said assets of their German ownership with the intention thereby of promoting international peace, and collective security by the elimination of German war potentials.

Now, therefore, the Control Council, in accordance with the decisions of the Potsdam Conference and the political and economic principles by which it is necessary to be guided in dealing with this problem, enacts as follows:

ARTICLE I

A German External Property Commission (hereinafter referred to as "the Commission") composed of representatives of the Four Occupying Powers in Germany is hereby constituted.

For the purpose of carrying out the provisions of this Law the Commission is constituted as an inter-governmental agency of the Control Council vested with all the necessary powers and authority.

ARTICLE II

All rights, titles and interests in respect of any property outside Germany which is owned or controlled by any person of German nationality inside Germany are hereby vested in the Commission.

ARTICLE III

All rights, titles and interests in respect of any property outside Germany which is owned or controlled by any person of German nationality outside Germany or by any branch of any business or corporation or other legal entity organized under the laws of Germany or having its principal place of business in Germany are hereby vested in the Commission.

For the purpose of this Article the term "any person of German Nationality outside Germany" shall apply only to a person who has enjoyed full rights of German citizenship under Reich Law at any time since 1 September 1939 and who has at any time since 1 September 1939 been within any territory then under the control of the Reich Government but shall not apply to any citizen of any country annexed or claimed to have been annexed by Germany since 31 December 1937.

ARTICLE IV

The Commission has power by unanimous agreement from time to time to add to the categories of persons to be affected by Articles II and III of this Law unless such addition is vetoed by the Control Council within 30 days of agreement by the Commission.

ARTICLE V

The question of whether or not any compensation shall be paid to any person whose right, title or interest in any property has been vested in accordance with this law will be decided at such time and in such manner as the Control Council may in the future determine.

ARTICLE VI

The right, title and interest to all property, title to which has been vested in the Commission under this Law, or the proceeds of such property shall be held by the Commission and disposed of pursuant to such further directives as the Control Council may issue from time to time.

ARTICLE VII

In addition to the general powers contained in Article I of this Law the Commission shall be vested with the following specific powers which it may exercise directly or through any agency which it deems appropriate:

- to do all acts which it deems necessary or appropriate to obtain possession or control over all property, the right, title or interest in which is vested in the Commission under this Law;
- to operate, control and otherwise exercise complete dominion over all such property, including, where this is essential to the preservation of the value represented by the property, the sale, liquidation or other disposal thereof subject to the provisions of Article VI;
- to require the keeping of full records, and to seize or require the production of any books of account, records, contracts, letters, memoranda, or other papers relating to any property affected by this Law and to compel the attendance of witnesses and to require the furnishing of full information regarding such property;
- to require information, evidence and records with regard to any property outside Germany, in whole or in part, of all

persons covered by Articles II and III hereof.

ARTICLE VIII

The work within any zone of occupation of marshalling and recording the evidence with respect to Germany's external assets shall be the responsibility of the Commander-in-Chief for that zone.

The Commission may request Zone Commanders to conduct certain investigations either alone or in conjunction with investigations being conducted in other zones, and, further, may itself conduct joint investigations in cases where the evidence is contained in more than one zone subject to the authority of the Commander-in-Chief in any zone in which such joint investigation is being conducted.

ARTICLE IX

Articles II and III of this Law shall not apply to assets subject to the jurisdiction of the United Kingdom, British Dominions, India, Colonies and Possessions, the Union of Soviet Socialist Republics, the United States, France and any other United Nations determined by the Control Council.

ARTICLE X

For the purpose of this Law:

a) The term "person" shall include any natural person or collective person or any juridical person or entity under public or private law having legal capacity to acquire, use, control or dispose of property or interests therein; and any government including all political sub-divisions, public corporations, agencies and any instrumentalities thereof. Any juridical person or entity which is organized under the laws of, or has its principal place of business in Germany shall be deemed to be a person of German nationality within the meaning of Article II hereof.

b) The term "property" shall include all movable and immovable property and all rights and interests in or claims to such property whether matured or not, including all property, rights, interests or claims transferred to or held by third parties as nominees or trustees, and all property, rights, interests or claims transferred by way of gift or otherwise or for consideration, express or implied, but not including the rights or interests of third parties to a bona fide sale for full consideration, and shall include but shall not be limited to buildings and lands, goods, wares and merchandise, chattels, coin, bullion, currency, deposits, accounts or debts shares, claims, bills of lading, warehouse receipts, all kinds of financial instruments whether expressed in Reichsmarks or in any foreign currency, evidences of indebtedness or ownership of property, contracts, judgments, rights in or with respect to patents, copyrights, trademarks, etc., and in general property of any nature whatsoever.

ARTICLE XI

It shall be an offense:

- For any person whose property is affected by this Law to do or to attempt to do any act or make any omission in derogation of the title or interest of the Commission under Articles II and III, or
- To assist or conspire with any other person to do or to attempt to do any such act or make such omissions as are specified in this Article.

ARTICLE XII

Any person violating any provision of this Law shall be liable to criminal prosecution.

ARTICLE XIII

All provisions of laws or decrees or parts therewith which are contradictory to any one of the provisions of this Law or of any law or decree issued under the provisions of this Law are hereby declared null and void.

Done at Berlin, 30 October 1945.

P. KOENIG
Général de Corps d'Armée

G. ZHUKOV
Marshal of the Soviet Union

DWIGHT D. EISENHOWER
General of the Army

B. L. MONTGOMERY
Field Marshal

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Pollock + Meisel
1947

VII

CONTROL COUNCIL IN ACTION

ACC
Law No. 1
Repealing of Nazi L
Sept. 20, 1945
Law 2: Oct. 10, 1945

The following selection of Control Council Laws and Proclamations will illustrate the progress made in the fields of judicial reform (documents 1, 3 and 4), denazification (2) and demilitarization (5).

Proclam. No. 3: Oct 20, 1945

On October 12, 1946, the Control Council published directive No. 38 which extends the denazification principles applied by the German courts in the U. S. zone (reproduced in Part B, section XVI, No. 2) to all Germany.

Law No 4: Oct 30, 1946

And on December 30, 1946, the Control Council enacted Law No. 43 "to prevent the rearmament of Germany," which re-enforces and amplifies the rules set forth in the Potsdam Agreement (IV) and in the "Additional Arrangements for Control of Germany (VI), bearing also on the "Level of German Industry" Plan, reproduced as Document No. IX. The directive prohibits "the manufacture, import, export, transport and storage" of all atomic means of warfare, all apparatus "capable of projecting lethal or destructive projectiles," armored vehicles, range-finding devices, warships, submersible craft and landing equipment, aircraft of all types, and poison gas. The production of high explosives or chemicals is likewise prohibited, but exceptions may be granted by Allied authorities for peaceful industrial purposes.

On February 20, 1947, the Control Council decreed that the State of Prussia had ceased to exist de jure (Law No. 44); the same day saw the abolition of Hitler's Nazi Farm Law (Control Council Law No. 45).

1

Law No. 1:

Repealing of Nazi Laws

The Control Council enacts as follows:-

Article I

1. The following laws of a political or discriminatory nature upon which the Nazi regime rested are hereby expressly repealed, together with all supplementary and explanatory laws, ordinances and decrees:-

- (a) Law concerning the Relief of Distress of the Nation and the Reich (Gesetz zur Behebung der Not des Volkes und des Reiches of 24 March, 1933, RGBl. I/41.
- (b) Law for the reconstitution of Officialdom (Gesetz zur Wiederherstellung des Berufsbeamtentums) of 7 April, 1933, RGBl. I/175.
- (c) Law for the amendment of the Provisions of Criminal Law and Procedure (Gesetz zur Aenderung von Vorschriften des Strafrechts und des Strafverfahrens) of 24 April, 1934, RGBl. I/341.
- (d) Law for the Protection of National Symbols (Gesetz zum Schutze der nationalen Symbole) of 19 May, 1933, RGBl. I/285.
- (e) Law against the creation of Political Parties (Gesetz gegen die Neubildung von Parteien) of 14 July, 1933, RGBl. I/479.
- (f) Law on Plebiscites (Gesetz uber Volksabstimmung) of 14 July, 1933, RGBl. I/479.

- (g) Law for securing the Unity of Party and State (Gesetz zur Sicherung der Einheit von Partei und Staat) of 1 December, 1933, RGBL. I/1016.
- (h) Law concerning insidious attacks against the State and the Party and for the protection of the Party Uniform and insignia (Gesetz gegen heimtückische Angriffe auf Staat und Partei und zum Schutz der Parteiform) of 20 December, 1934, RGBL. I/1269.
- (j) Reich Flag Law (Reichsflaggengesetz) of 15 September, 1935, RGBL. I/1145.
- (k) Law for the protection of German Blood and German Honour (Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre) of 15 September, 1935, RGBL. I/1146.
- (l) Reich Citizenship Law (Reichsbürgergesetz) of 15 September, 1935, RGBL. I/1146.
- (m) Prussian Law concerning the Gestapo (Preussisches Gesetz über die Geheime Staatspolizei) of 10 February, 1936, G.S. 21.
- (n) Hitler Youth Law (Gesetz über die Hitler Jugend) of 1 December, 1936, RGBL. I/993.
- (o) Ordinance against support for the camouflaging of Jewish Businesses (Verordnung Gegen die Unterstützung der Tarnung Jüdischer Gewerbebetriebe) of 22 April, 1938, RGBL. I/404.
- (p) Ordinance for the reporting of Property of Jews (Verordnung über die Anmeldung des Vermögens von Juden) of 26 April, 1938, RGBL. I/414.
- (q) Law concerning the alteration of the trade regulations for the Reich (Gesetz zur Änderung der Gewerbeordnung für das Deutsche Reich) of 1 July, 1938, RGBL. I/823.
- (r) Second Carrying out Ordinance of the Law concerning the changing of Family Names and Christian Names (Zweite Verordnung zur Durchführung des Gesetzes über die Änderung von Familiennamen und Vornamen) of 17 August, 1938, RGBL. I/1044.
- (s) Ordinance concerning the Passports of Jews (Verordnung über Reisepässe von Juden) of 5 October, 1938, RGBL. I/1342.
- (t) Ordinance for the elimination of Jews from economic life (Verordnung zur Ausschaltung der Juden aus dem deutschen Wirtschaftsleben) of 12 November, 1938, RGBL. I/1580.
- (u) Police Ordinance concerning the appearance of Jews in Public (Polizeiverordnung über das Auftreten der Juden in der Öffentlichkeit) of 28 November, 1938, RGBL. I/1676.
- (w) Police Ordinance concerning the marking of Jews (Polizeiverordnung über die Kennzeichnung der Juden) of 1 September, 1941, RGBL. I/547.
- (x) Ordinance concerning the employment of Jews (Verordnung über die Beschäftigung von Juden) of 31 October, 1941, RGBL. I/675.
- (y) Decree of the Fuehrer concerning the legal status of the NSDAP (Erlaß des Fuehrers über die Rechtsstellung der NSDAP) of 12 December, 1942, RGBL. I/733.
- (z) Police Ordinance concerning the identification of male and female workers from the East on Reich Territory (Polizeiverordnung über die

Kenntlichmachung der im Reich befindlichen Ostarbeiter und Arbeiterinnen) of 19 June, 1944, RGBl. I/147.

2. The abrogation of the above mentioned laws does not revive any law enacted subsequent to 30 January, 1933, which was thereby repealed.

Article II

No German enactment, however or whenever enacted, shall be applied judicially or administratively in any instance where such application would cause injustice or inequality, either (a) by favoring any person because of his connection with the National Socialist German Labor Party, its formations, affiliated associations, or supervised organizations, or (b) by discriminating against any person by reason of his race, nationality, religious beliefs, or opposition to the National Socialist German Labor Party or its doctrines.

Article III

Any person applying or attempting to apply any law repealed by this law will be liable to criminal prosecution.

Done at Berlin 20 September 1945

2

Law No. 2:

Providing for the Termination and Liquidation of the Nazi Organizations

The Control Council enacts as follows:

Article I

1. The National Socialist German Labour Party, its formations, affiliated associations and supervised agencies, including para-military organizations and all other Nazi institutions established as instruments of party domination, are hereby abolished and declared illegal.

2. The Nazi organizations enumerated in the attached Appendix, or which may be added, are expressly abolished. [Not printed.]

3. The re-forming of any of the organizations named herein, whether under the same or different name, is forbidden.

Article II

All real estates, equipments, funds, accounts, records and other property of the organizations abolished by this law are confiscated. Confiscation is carried out by Military Commands; general directives concerning the distribution of the confiscated property are given by the Control Council.

Article III

Until such time as the property mentioned is actually placed under the control of the Military Commands all officers and other personnel, including administrative officials and others accountable for such property, are held personally responsible for taking any action necessary to preserve intact all

such property and for complying with the orders of the Military Commands regarding such property.

Article IV

Any person violating any provision of this law shall be liable to criminal prosecution.

Done at Berlin 10 October 1945

3

Proclamation No. 3:

Fundamental Principles of Judicial Reform

By the elimination of the Hitler tyranny by the Allied Powers the terrorist system of Nazi Courts has been liquidated. It is necessary to establish a new democratic judicial system based on the achievements of democracy, civilization and justice. The Control Council therefore proclaims the following fundamental principles of judicial reform which shall be applied throughout Germany.

I

Equality before the Law

All persons are equal before the law. No person whatever his race, nationality or religion, shall be deprived of his legal rights.

II

Guarantees of the Rights of the Accused

1. No persons shall be deprived of life, liberty or property without due process of law.
2. Criminal responsibility shall be determined only for offences provided by law.
3. Determination by any court of any crime "by analogy" or by so-called "sound popular instinct," as heretofore provided in the German Criminal Code, is prohibited.
4. In any criminal prosecution the accused shall have the rights recognized by democratic law, namely the right to a speedy and public trial and to be informed of the nature and cause of the accusation, the right to be confronted with witnesses in his favor and the right to have the assistance of counsel for his defence. Excessive or inhuman punishments or any not provided by law will not be inflicted.
5. Sentences on persons unjustly convicted under the Hitler Regime on political, racial or religious grounds must be quashed.

III

Liquidation of Extraordinary Hitler Courts

The People's Court, Courts of the NSDAP and Special Courts are abolished and their re-establishment prohibited.

IV

Independence of the Judiciary

1. Judges will be independent from executive control when exercising their functions and owe obedience only to the law.

2. Access to judicial functions will be open to all who accept democratic principles without account of their race, social origin or religion. The promotion of judges will be based solely on merit and legal qualifications.

V

Justice will be administered in Germany in accordance with the principles of this proclamation by a system of Ordinary German Courts.

Done at Berlin 20 October 1945

4

Law No. 4:

Reorganization of the German Judicial System

November 10, 1945

The Control Council, in accordance with its proclamation to the German people, dated 20 October 1945, deciding that the German judicial system must be reorganized on the basis of the principles of democracy, legality and equality before the law of the citizens, without distinction of race, nationality or religion, enacts as follows:

Article I

Reorganisation of the German courts, will in principle, take place in conformity with the Law concerning the Structure of the Judiciary of 27 January 1877, Edition of 22 March 1924 (RGBl 1/299). The following system of ordinary courts is to be reestablished: Amtsgerichte, Landgerichte, and Oberlandesgerichte.

Article II

The Jurisdiction of Amtsgerichte and Landgerichte in civil and criminal cases will in general be determined in conformity with the law in force on 30 January 1933; however, the civil jurisdiction of the Amtsgerichte will be extended to claim of a value not exceeding RM. 2000.

The Landgerichte will have appellate jurisdiction over decisions of the Amtsgerichte.

The Oberlandesgerichte will have no original jurisdiction but will have final appellate jurisdiction over the decisions of the Landgerichte in civil

cases; they will have the right of review on question of law (Revision) over decisions of Amtsgerichte and Landgerichte in criminal cases as provided by law.

Article III

Jurisdiction of German Courts shall extend to all cases both civil and criminal with the following exceptions:

- (a) Criminal offenses committed against the Allied Occupation Forces;
- (b) Criminal offenses committed by Nazis or any other persons against citizens of Allied nations and their property, as well as attempts directed towards the re-establishment of the Nazi regime, and the activity of the Nazi organisations;
- (c) Criminal offenses involving military personnel of Allied Forces or citizens of Allied nations;
- (d) Other selected civil and criminal cases withdrawn from the jurisdiction of German Courts, as directed by the Allied Military Command;
- (e) When an offense committed is not of such a nature as to compromise the security of the Allied Forces, the Military Command may leave it to the jurisdiction of German Courts.

Article IV

To effect the reorganization of the judicial system, all former members of the Nazi Party who have been more than nominal participants in its activities and all other persons who directly followed the punitive practices of the Hitler regime must be dismissed from appointments as judges and prosecutors and will not be admitted to those appointments.

Article V

In carrying out this law, it is left to the discretion of the Military Command gradually to bring the jurisdiction of German courts into conformity with this law.

Article VI

This law will come into force from the date of its promulgation. The Military Commanders of Zones are charged with its execution.

Done at Berlin 30 October 1945

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Law No. 34:

Dissolution of the Wehrmacht

The Control Council, in accordance with Proclamation No. 2, Section I, paragraph 1, of 20th September 1945, enacts as follows:

Article I

The German War Ministries: Oberkommando der Wehrmacht (OKW), Oberkommando

740.00119 Control (Germany)/11-2845: Telegram

The United States Political Adviser for Germany (Murphy) to the Secretary of State

[Extract]

BERLIN, November 28, 1945—8 p. m.

[Received December 1—2:18 a. m.]

1126. (1) Twenty-third meeting of the Coordinating Committee. Russian member presiding, was held yesterday and gave rise to a certain acrimony on the questions of restitution and decentralization of German economy.

(2) Economics Directorate produced a report⁷⁷ containing on the one hand a Russian definition of restitution and a US, British and French definition on the other. Russian definition, which was essentially the same as that brought forward at last Coordinating Committee meeting (see 1092 of November 24, 6 p. m.⁷⁸), was that restitution is limited to property capable of identification, forcibly seized and carried away from the territory of the country by the enemy. Alternative definition was that restitution will be limited to identifiable goods which existed at the time of the occupation and which were taken out of the country by the enemy, whatever the means of dispossession; it would also include identifiable goods produced during the occupation acquired by the enemy by force. French member pointed out that in this latter respect the alternative definition was narrower than the Declaration of January 5, 1943,⁷⁹ which envisaged restitution of goods sold to the enemy with the consent of the victim country and/or pointed to the conciliatory attitude of his delegation in accepting this narrower interpretation. He referred to the positions taken at the current Paris Reparations Conference, by the US, British and French representatives. This provoked a question by the British member as to which body would furnish a definition and he stated his understanding that responsibility in this regard rested with the Control Council.

General Clay emphasized the urgent need of reaching a definition and pointed out that the intent of the present discussion was mainly to set a limit on restitution and that progress could later be made with respect to procedure. He suggested a compromise along the following lines:

"Restitution will be limited in the first instance to identifiable goods which existed at the time of the occupation of the country and which

⁷⁷ The paper referred to, designated CORC/P (45) 167, actually emanated from the Reparations, Deliveries, and Restitution Directorate.

⁷⁸ Extracts of this telegram, dealing with a different aspect of the German situation, are printed on p. 911.

Directive on Restitution
GERMANY Nov. 29, 1945
1427

were taken out of the country by the enemy through use of force. Also falling under measures of restitution are identifiable goods produced during the occupation and whose acquisition was accompanied by an act of force. All other articles removed by the enemy which existed at the time of occupation are eligible for restitution to the extent consistent with reparations and the minimum economy to be left Germany."

French member pointed out French public opinion could not accept the leaving of certain important looted articles to the remaining German minimum economy, but he stated he would seek his Gov't's views on General Clay's suggestion for presentation the next meeting. Russian member likewise requested time for consideration. British member expressed sympathy with French position and mentioned he would accept whatever definition is agreeable to the French.

MURPHY

Department of the Army Files: Telegram

*The Joint Chiefs of Staff to General Clark and General McNarney*⁸⁰

WASHINGTON, 29 November 1945.

Warx 85965. 1. This directive,⁸¹ received from the State, War and Navy Departments, is issued to you as Commander in Chief, U.S. Zone of Occupation, Austria (Germany) and U.S. Member of the Allied Council, Austria (Germany).

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

You will proceed with the application of this directive in your own zone even prior to agreement, provided, however, that restitution of property defined in Paragraphs 2 c and 2 d will be effected only when the return of such property is certified by the appropriate representative of the claimant country to be urgently required for the rehabilitation and reconstruction of his country. The restitution shall not be delayed on the ground that items subject to restitution are needed

⁸⁰ Gen. Joseph T. McNarney had succeeded Gen. Dwight D. Eisenhower as Commanding General, United States Forces, European Theater, United States Military Governor for Germany, and United States Member of the Allied Control Council, Germany.

⁸¹ A draft of this directive had been approved by informal action of the State-War-Navy Coordinating Committee on November 13 and December 13, 1945; concerning SWNCC 24/2.

to meet the military or civilian requirements in any zone of occupation provided that in the case of transportation equipment restitution may be so phased as not to reduce available transportation below that required for military deployment and for purposes of the occupation, including the removal of industrial plant and equipment for reparation.

ITEMS SUBJECT TO RESTITUTION

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

- a. All currencies of the United Nations occupied by Germany;
- b. Works of art and cultural works of either religious, artistic, documentary, scholastic or historic value including, as well as recognized works of art, such objects as rare musical instruments, books and manuscripts, scientific documents of an historic or cultural nature and all objects usually found in museums, collections, libraries, and historic archives, identified as having been looted or acquired in any way through commercial transactions or otherwise by Germans from United Nation countries during German occupation;
- c. Heavy and power-driven industrial and agricultural machinery and equipment, rolling stock, locomotives, barges and other transportation equipment (other than sea-going vessels) and communication and power equipment identified as having been looted or acquired in any way by Germans from United Nations during German occupation;
- d. Other goods, valuables (excluding gold, securities, and foreign currencies other than those mentioned in Paragraph 2 a), materials, equipment, livestock and other property found in storage or otherwise in bulk form and identified as having been looted or acquired in any way by Germans from United Nations during German occupation;
- e. In the case of property mentioned in c and d above which was produced during the period of occupation, restitution shall be made only if the claimant government submits adequate proof that the property in question was acquired by Germany through an act of force.

PROCEDURES FOR RESTITUTION

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

4. After examination of these lists you will indicate to your government which of these countries should be invited to send missions

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

5. You will take steps to deliver all paper currency of United Nation countries invaded or occupied by Germany, now in your zone, to the government of the country of issue without the necessity of proof that it was looted or otherwise acquired from that country during the period of German invasion or occupation.

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

GENERAL PROVISIONS

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

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

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

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

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

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distribution of essential commodities, subject to the approval and review of the Supreme Commander in order to assure their conformity with the objectives of the occupation.

4. *Reparations and Restitution*—a. *Reparations*—Reparations for Japanese aggression shall be made:

(1) Through the transfer—as may be determined by the appropriate Allied authorities—of Japanese property located outside of the territories to be retained by Japan.

(2) Through the transfer of such goods or existing capital equipment and facilities as are not necessary for a peaceful Japanese economy or the supplying of the occupying forces. Exports other than those directed to be shipped on reparation account or as restitution may be made only to those recipients who agree to provide necessary imports in exchange or agree to pay for such exports in foreign exchange. No form of reparation shall be exacted which will interfere with or prejudice the program for Japan's demilitarization.

b. *Restitution*—Full and prompt restitution will be required of all identifiable looted property.

5. *Fiscal, Monetary, and Banking Policies*—The Japanese authorities will remain responsible for the management and direction of the domestic fiscal, monetary, and credit policies subject to the approval and review of the Supreme Commander.

6. *International Trade and Financial Relations*—Japan shall be permitted eventually to resume normal trade relations with the rest of the world. During occupation and under suitable controls, Japan will be permitted to purchase from foreign countries raw materials and other goods that it may need for peaceful purposes, and to export goods to pay for approved imports.

Control is to be maintained over all imports and exports of goods, and foreign exchange and financial transactions. Both the policies followed in the exercise of these controls and their actual administration shall be subject to the approval and supervision of the Supreme Commander in order to make sure that they are not contrary to the policies of the occupying authorities, and in particular that all foreign purchasing power that Japan may acquire is utilized only for essential needs.

7. *Japanese Property Located Abroad*—Existing Japanese external assets and existing Japanese assets located in territories detached from Japan under the terms of surrender, including assets owned in whole or part by the Imperial Household and Government, shall be revealed to the occupying authorities and held for disposition according to the decision of the Allied authorities.

8. *Equality of Opportunity for Foreign Enterprise within Japan*—The Japanese authorities shall not give, or permit any Japanese business organization to give, exclusive or preferential opportunity or terms to the enterprise of any foreign country, or cede to such enterprise control of any important branch of economic activity.

9. *Imperial Household Property*—Imperial Household property shall not be exempted from any action necessary to carry out the objectives of the occupation.

XVI
STATEMENT ON AMERICAN ECONOMIC POLICY
TOWARD GERMANY
December 12, 1945.¹

A. STATEMENT BY THE SECRETARY OF STATE

The Department of State has formulated a statement of its economic policy toward Germany for the guidance of the United States occupying authorities and has transmitted that statement to the War Department and to the Governments of the other occupying powers. The fundamental policy was, of course, laid down at Potsdam. The purpose of this statement is to make clear the American conception of the meaning of the Potsdam Declaration as it bears on present and impending economic issues in Germany.

The position of Germany in the present world picture must be looked at broadly against the whole background of recent history. For six years Germany has ruthlessly imposed war and destruction on Europe and the world. The Nazis who ruled there for more than a decade are now defeated, discredited and have been or are being rooted from positions of power. The final stages of war caused vast movements of Germans within their own country, and peace has permitted the return to their homes of millions of foreign laborers who had been enslaved in German mines and factories. The insistence of the Nazis on continuing the war to the bitter end caused enormous destruction to German cities, transport facilities and other capital of the country. These are the basic reasons for the present position of Germany, a position for which the Germans themselves are primarily responsible. German industrial production will for some time be low and her people ill-fed even if there were no occupation and no reparations program.

The Potsdam Declaration involves three stages in the return of Germany to normal economic conditions. The first covers the German economy from the surrender of the armed forces, last May, to at least the end of the present winter. In this interval our broad purposes are to ensure that our policy in Germany makes the maximum possible contribution to recovery in areas recently liberated from Germany and, positively, to set up a structure that will provide for the future recovery of Germany in conformity with the principles agreed to at Potsdam.

Within these broad objectives four principal immediate aims are these:

First, to increase to the greatest possible extent the export of coal from Germany to liberated areas. The rate of economic recovery in Europe depends upon the coal supplies available over this winter; and it is our intention to maintain the policy of hastening the recovery of liberated areas, even at the cost of delaying recovery in Germany.

Second, to use the months before spring to set up and to set into motion, in conjunction with our Allies, the machinery necessary to execute the reparations and disarmament programs laid down and agreed at Potsdam. A considerable part of the statement just issued is directed to making clear the technical basis on which we believe the reparations calculation should be made. This calculation, which requires definition of the initial postwar German economy, must be completed before February 2, 1946.

¹Released to the press December 12. Department of State, *Bulletin*, Vol. XIII (1945), pp. 960-965.

Third, to set up German administrative agencies which would operate under close policy control of the occupying authorities in the fields of finance, transport, communications, foreign trade, and industry. Such agencies, explicitly required by the terms of the Potsdam agreement, must operate if Germany is to be treated as an economic unit and if we are to move forward to German recovery and to the eventual termination of military occupation.

Fourth, to prevent mass starvation in Germany. Throughout Europe there are many areas where the level of diet is at or close to starvation. In terms of world supply and of food shipments from the United States, liberated areas must enjoy a higher priority than Germany throughout this first post-war winter. The United States policy, in collaboration with its Allies, is to see that sufficient food is available in Germany to avoid mass starvation. At the moment the calory level for the normal German consumer has been established at 1,550 per day. This requires substantial imports of foodstuffs into Germany, especially of wheat; and for its own zones of Germany and Berlin the United States is now importing wheat to achieve this level. The bulk of the German population has been eating more than 1,550 calories daily, either because they can supplement the ration from foodstuffs available in the countryside, or because their work justifies a ration level higher than that of the normal consumer, as in the case of coal miners. In the major cities, and especially Berlin, however, a food problem exists and is particularly severe during the winter months. One thousand, five hundred and fifty calories is not sufficient to sustain in health a population over a long period of time, but as a basic level for the normal consumer it should prevent mass starvation in Germany this winter. If a higher level for the normal consumer is judged to be required and if it is justified by food standards in liberated areas, the ration level in Germany may be raised by agreement among the four occupying powers.

In short, this will be an exceedingly hard winter for Germany, although only slightly more difficult than for certain of the liberated areas. A softening of American policy toward the feeding of German civilians and toward the allocation of coal exports from Germany, while it would ease the difficult task of the four occupying authorities, could largely be at the expense of the liberated areas. We are, however, constructively preparing for the second stage in German economic policy, which should begin some time next spring.

In this second stage, it is envisaged that Germany will gradually recover. Simultaneously with the removal of plants under reparation, plants will be earmarked for retention; and as fuel and raw materials become available, German industry which is permitted to remain will be gradually reactivated and the broken transport system revived. Although coal exports from Germany will continue, the probable expansion in coal output should permit larger allocations in coal to the German economy, after the end of the winter. German industrial production will then increase and German exports should begin to approach a level where they can finance necessary imports and gradually repay the occupying forces for their outlays in the present emergency period.

The third stage of economic development will follow after the period of reparation removals, which under the terms of the Potsdam Declaration must be completed by February 2, 1948. The resources left to Germany at that time will be available to promote improvement of the German standard of living to a level equal to that of the rest of continental Europe other than the Soviet Union and the United Kingdom. Housing and transport will recover more rapidly than

in the previous stages of economic development. In general, the German people will during this period recover control over their economy subject to such residual limitations as the occupying powers decide to impose. These limitations, which will be determined by agreement among the occupying powers, should, in the opinion of this Government, be designed solely to prevent German rearmament and not to restrict or reduce the German standard of living.

In all these stages it must be borne in mind that the present occupying powers, as well as many other nations, have suffered severely from German aggression, have played a large role in the German defeat and have an enduring interest in the postwar settlement of Germany. The settlement agreed at Potsdam requires the shifting of boundaries in the East and the movement of several million Germans from other countries. That settlement also requires, in the interests of European rehabilitation and security, the removal from Germany of a large part of the industrial warmaking capacity which never served the German civilian, but which, from 1933 on, served to prepare for war and to make war. In the words of the Potsdam Declaration:

"It is not the intention of the Allies to destroy or enslave the German people. It is the intention of the Allies that the German people be given the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis. If their own efforts are steadily directed to this end, it will be possible for them in due course to take their place among the free and peaceful peoples of the world."

B. STATE DEPARTMENT STATEMENT ON REPARATIONS SETTLEMENT AND PEACETIME ECONOMY OF GERMANY

(1) The determination of the amount and character of industrial capital equipment unnecessary for the German peacetime economy which is to be made by the Allied Control Council prior to February 2, 1946, has the limited purposes of eliminating the existing German war potential and deciding the volume of available reparation from the three western zones of occupation.

(a) The task of the Allied Control Council is to eliminate German industrial capacity to produce finished arms, ammunition, implements of war, aircraft and sea-going ships, either by removing such capacity as reparation or by destroying it, and to effectuate a drastic reduction in the capacities of the metallurgical, machinery and chemical² industries. The present determination, however, is not designed to impose permanent limitations on the German economy. The volume of permitted industrial production of a peacetime character will be subject to constant review after February 2, 1946; and final Allied decisions regarding restrictions to be maintained on German industrial capacity and production will not be made until the framing of the peace settlement with Germany.

(b) While reparation removals will undoubtedly retard Germany's economic recovery, the United States intends, ultimately, in cooperation with its Allies, to permit the German people under a peaceful democratic government of their

²The phrases "machine industry" and "machine manufacturing industry" in the Berlin Declaration should be interpreted broadly. The parallel language from J.C.S. 1067 covers machine-tool, automotive, and radio and electrical industries. It is suggested that the phrases should be interpreted to cover "metal-working industry," or, in British terminology, heavy and light engineering. The words "chemical industry" should be interpreted to include particularly that part of the industry which is devoted, or can be readily converted, to war production, and to exclude potash and salt industries, which should be included with extractive industries.

own choice to develop their own resources and to work toward a higher standard of living subject only to such restrictions designed to prevent production of armaments as may be laid down in the peace settlement.

(2) It is in the interest of the United States to abide strictly by the terms of the Berlin Declaration which imposes a severe reparation obligation on Germany in order to:

(a) weaken effectively the economic base from which war industry could be derived until a peaceful democratic Government is firmly established in Germany;

(b) provide material assistance to United Nations countries which have suffered from Nazi aggression and which now face tasks of rehabilitation and reconstruction from the damage of war;

(c) insure that, in the recovery from economic chaos left by war in Europe, the aggressor nation, Germany, shall not reconstitute a peacetime standard of living at an earlier date than the countries ravaged by German arms.

(3) The security interest of the United States and its Allies requires the destruction in Germany of such industrial capital equipment as cannot be removed as reparation and as can only be used for the production of armaments or of metallurgical, machinery or chemical products in excess of the peacetime needs of the German economy. It is not, however, the intention of the United States wantonly to destroy German structures and installations which can readily be used for permitted peacetime industrial activities or for temporary shelter. It will evidently be necessary to destroy specialized installations and structures used in shipbuilding, aircraft, armaments, explosives and certain chemicals which cannot be removed as reparation. Non-specialized installations and structures in the same fields may have to be destroyed in substantial part, if not desired as reparation, in cases of integrated industrial complexes the layout of which is such as substantially to facilitate reconversion from peacetime to war purposes at some later date. Finally, in removing equipment from plants declared available for reparation, no consideration should be given to withholding portions of the equipment desired by a reparation recipient in order to retain remaining installations and structures in more effective condition for peacetime uses. Within these limits, however, the reparation and security policies of the United States are not designed to result in punitive destruction of capital equipment of value to the German peacetime economy.

(4) For the purpose of determining the industrial capacity of the peacetime German economy, thus eliminating its war potential—the real basis on which the amount and character of reparation removals are to be calculated—it should be assumed that the geographical limits of Germany are those in conformity with provisions of the Berlin Declaration, i.e., those of the Altreich less the territory east of the Oder-Neisse line.

(5) The Berlin Declaration furnishes as a guide to removals of industrial equipment as reparation the concept of a balanced peacetime German economy capable of providing the German people with a standard of living not in excess of the European average (excluding the United Kingdom and the Union of Soviet Socialist Republics). In the view of the Department of State the Berlin Declaration is not intended to force a reduction in German living standards except as such reduction is required to enable Germany to meet her reparation payments. In effect, the Berlin Declaration merely provides that Germany's obligation to make reparation for the war damage which her aggression caused

to other countries should not be reduced in order to enable Germany to maintain a standard of living above the European average. The Department of State further interprets the standard-of-living criterion to refer to the year immediately following the two-year period of reparation removals. For the purpose of meeting this requirement, German industrial capacity after reparation removals should be physically capable of producing a standard of living equivalent to the European average in, say, 1948. Given the difficult problems of administration and economic organization which the German peacetime economy will still face in 1948, it may be doubted that industrial equipment remaining in Germany at that time will in fact produce at full capacity, so that the standard of living realized in Germany is likely for some time to fall short of the European average.

(6) It may be assumed that the European standard of living in 1948 would approximate the average standard of living over the period 1930-38. If this assumption be adopted, the German standard of living chosen as a basis for estimating the industrial capital equipment to remain in Germany could be arrived at by use of German consumption data in a year in which the German standard of living, as measured by national income indices, most closely approximated the 1930-38 average in Europe. The German consumption standard in the year selected should be subject to adjustments upwards or downwards to compensate for any over-all difference between the German standard in the year selected and the European average. Past consumption records defined as suggested above are meant only as a general guide. They would require the following further adjustments:

(a) Provision for change in population between year selected and 1948.

(b) Adjustment to allow for notable deviations in pattern of German consumption in selected year from normal pattern.

(c) Allowance to enable the German people to make good, at reasonable rates of reconstruction, the wide-spread damage to buildings in Germany, and to the transport system as scaled-down to meet the requirements of the German peacetime economy. It is suggested that sufficient additional resources beyond those required to provide the adjusted output of the selected year should be left to overcome the building shortage in twenty years and to effect repairs to structures on rail and road transport systems over five years.

(d) Sufficient resources should be left to Germany to enable that country, after completion of industrial removals and reactivation of remaining resources, to exist without external assistance. This topic is more fully treated below.

(7) In planning the peacetime German economy, the interests of the United States are confined to the industrial disarmament of Germany and to the provision of a balanced economic position at the standard of living indicated. The United States does not seek to eliminate or weaken German industries of a peaceful character, in which Germany has produced effectively for world markets, for the purpose of protecting American markets from German goods, aiding American exports, or for any other selfish advantage. Similarly the United States is opposed to the attempt of any other country to use the industrial disarmament plan of the Berlin Declaration to its own commercial ends at the expense of a peacetime German economy. It is our desire to see Germany's economy geared to a world system and not an autarchical system.

(8) In determining the volume of removals for reparation purposes, the United States should not approve removals on such a scale that Germany would

be unable, owing to a shortage of capital equipment, to export goods in sufficient quantities to pay for essential imports. Thus capacity should be left to enable Germany to produce for export goods which yield enough foreign exchange to pay for the imports required for a standard of living equal to the average in Europe, excluding the United Kingdom and the Union of Soviet Socialist Republics. In this connection, the following points should be stressed:

(a) In determining the amount of capital equipment to be retained in Germany, provision need be made for capacity to produce exports sufficient to pay for estimated current imports. No allowance should be made in German export industry to provide capacity to pay for externally incurred occupation costs, including imports of goods consumed by forces of occupation, and troop pay not expended in Germany.

(b) The provision in the Berlin Declaration which stipulates that in organizing the German economy "primary emphasis shall be given to the development of agricultural and peaceful domestic industries" requires that the maximum possible provision be made for exports from sources other than the metal, machinery, and chemical industries.

(c) It is implicitly recognized in the Berlin Declaration that the policy of industrial capital equipment removals and the restriction of exports in the fields of metals, machinery and chemicals will require countries which have previously depended on Germany as a source of these products to obtain them elsewhere. Since capacity in the metal, machinery and chemical industries in excess of German peacetime needs is to be transferred to countries entitled to receive reparation from Germany, it is expected that the industrial capacity lost in Germany will after an interval be recovered in large part elsewhere in the world, and for the most part in Europe. But it should be borne in mind that the industry removed from Germany will in the main replace industry destroyed by the Germans and will not be sufficient to meet the prewar demand. It should be emphasized, however, that any effort toward industrial recovery in Germany must not be permitted to retard reconstruction in European countries which have suffered from German aggression.

(d) In determining the amount of capacity required to strike an export-import balance, the United States and other occupying powers cannot in fact guarantee that the export-import balance will be achieved. Their responsibility is only to provide reasonable opportunity for the attainment of balance at the agreed minimum level of standard of living. In fixing the amount of industrial capacity necessary for export, the provision of margins of safety is unnecessary if Germany's export potential is estimated on a reasonable basis. It should be noted that, if resources are left to enable Germany to make good her war damage and depreciation in housing and transport over certain numbers of years as suggested in paragraph 5 (d), extension of the period in which such deficits are liquidated would in case of need make some additional capacity available for production of export goods.

(9) The necessity which devolves upon the United States and other occupying powers to finance imports into Germany and possibly to pay for such imports in the next few years does not arise in the first instance from the policy of reparation removals agreed upon at Potsdam. The German economy was brought virtually to a standstill by Germany's defeat, which produced an almost complete breakdown of transport, economic organization, administration, and direction. If no removals of industrial capital equipment were attempted, Ger-

many would still require United Nations aid in financing and possibly in paying for minimum imports necessary to prevent disease and unrest. Even after substantial capital removals have been completed, it is doubtful that the German economy can operate for some time up to the limits of remaining industrial capacity, due to the limited availability of fuel, food, raw materials, and the slow progress which can be made in filling the gap left by the Nazis in the economic and political organization of Germany. It is possible, and even likely, that the physical transport of reparation removals will limit transport capacity available for recovery of the German economy and for the expansion of exports. It is in this respect only, however, that the reparation policy laid down in the Berlin Declaration may require the United Nations to finance German imports for a longer period, or to pay for them in greater degree, than if no provision for reparation from Germany had been made.

(10) During the next two years the United States and other occupying powers must finance minimum essential imports into Germany to the extent that exports from stocks and current production do not suffice to cover the cost of such imports. Since the Berlin Declaration makes no provision with respect to the German standard of living in the period of occupation, the occupying powers are not obliged to provide imports sufficient for the attainment in Germany of a standard of living equal to the European average. The present standard of supply in Germany, so far as the United States is concerned, is still governed by the "disease and unrest" formula. Under the conditions set forth in paragraph 9, it will prove desirable to extend the type and volume of imports into Germany not only because of our interest in avoiding disease and unrest endangering our occupying forces but also because of our interest in reactivating selected German export industries which would yield a volume of foreign exchange, and as far as possible to repay the past outlays of the occupying powers on imports. If, when the time comes for the conclusion of a peace treaty with Germany, there remains a backlog of unpaid imports, the occupying powers will have to decide whether or not to impose on Germany an obligation to pay off the accumulated deficit.

(11) For the immediate future, and certainly until next spring, military government authorities should concentrate on the repair of transport, emergency repair of housing and essential utilities, and the maximization of coal and agricultural production. Some coal will of course be required in Germany to effect the minimum repairs of transport, housing, and utilities called for in existing directives. As long as coal and raw materials remain in short supply in Europe, however, it is United States policy to make them available in maximum quantities for the revival of industrial output in liberated areas.

The maximization of coal exports in accordance with existing directives will make it impossible to allocate within Germany coal sufficient to attain a significant volume of industrial production and over the coming winter it will limit activity even in fields directly related to repair of transport, housing and utilities and to agriculture.

If and when the coal crisis in Europe is surmounted—perhaps by next spring—it will be possible to review the situation and ascertain whether larger amounts of German coal can be allocated for essential industrial production in Germany, and in particular for the selective reactivation of German export industries. The possibilities in this direction will depend not only on the satisfaction of coal requirements in liberated areas, but also on the success of military government

authorities in raising German coal output and restoring the German transport system.

Meanwhile, military government authorities should survey the fuel and raw material requirements of German industries capable of supplying essential civilian goods and of manufacturing for export so that, as soon as coal and raw materials can be made available, a program for selective reactivation of remaining industrial capacity in Germany can get underway. In formulating this program, attempt must be made to give priority to industries which in relation to expenditures of fuel and raw materials will contribute most toward striking an ultimate export-import balance in Germany, as well as to the satisfaction of the most pressing internal requirements of the German economy.

(12) The role of the occupying authorities in the process of German revival should, in general, be that of providing and setting the conditions within which the Germans themselves assume responsibility for the performance of the German economy. To this end, the occupying authorities should devote primary attention in planning revival to the development of German administrative machinery, not only in the fields of intrazonal production and trade but in interzonal and international trade, and in the application of common policies in transport, agriculture, banking, currency, taxation, etc.

As one aspect of this process, denazification should be satisfactorily completed during the present period. For the rest, great importance attaches to the conclusion within the Allied Control Council of agreements governing policies to be followed in various aspects of the German economy enumerated and devising interzonal German machinery for their application.

XVII

MOSCOW COMMUNIQUE OF DECEMBER 27, 1945¹

At the meeting which took place in Moscow from December 16 to December 26, 1945 of the Ministers of Foreign Affairs of the Union of Soviet Socialist Republics, the United States of America and the United Kingdom, agreement was reached on the following questions:

II

FAR EASTERN COMMISSION AND ALLIED COUNCIL FOR JAPAN

A. FAR EASTERN COMMISSION

Agreement was reached, with the concurrence of China, for the establishment of a Far Eastern Commission to take the place of the Far Eastern Advisory Commission. The Terms of Reference for the Far Eastern Commission are as follows:

I. Establishment of the Commission

A Far Eastern Commission is hereby established composed of the representatives of the Union of Soviet Socialist Republics, United Kingdom, United States, China, France, the Netherlands, Canada, Australia, New Zealand, India, and the Philippine Commonwealth.

¹Only Sections II and III are reprinted here. For full text see Department of State, *Bulletin*, Vol. XIII (1945), pp. 1027-32.

II. Functions

A. The functions of the Far Eastern Commission shall be:

1. To formulate the policies, principles, and standards in conformity with which the fulfillment by Japan of its obligations under the Terms of Surrender may be accomplished.

2. To review, on the request of any member, any directive issued to the Supreme Commander for the Allied Powers or any action taken by the Supreme Commander involving policy decisions within the jurisdiction of the Commission.

3. To consider such other matters as may be assigned to it by agreement among the participating Governments reached in accordance with the voting procedure provided for in Article V-2 hereunder.

B. The Commission shall not make recommendations with regard to the conduct of military operations nor with regard to territorial adjustments.

C. The Commission in its activities will proceed from the fact that there has been formed an Allied Council for Japan and will respect existing control machinery in Japan, including the chain of command from the United States Government to the Supreme Commander and the Supreme Commander's command of occupation forces.

III. Functions of the United States Government

1. The United States Government shall prepare directives in accordance with policy decisions of the Commission and shall transmit them to the Supreme Commander through the appropriate United States Government agency. The Supreme Commander shall be charged with the implementation of the directives which express the policy decisions of the Commission.

2. If the Commission decides that any directive or action reviewed in accordance with Article II-A-2 should be modified, its decision shall be regarded as a policy decision.

3. The United States Government may issue interim directives to the Supreme Commander pending action by the Commission whenever urgent matters arise not covered by policies already formulated by the Commission; provided that any directives dealing with fundamental changes in the Japanese constitutional structure or in the regime of control, or dealing with a change in the Japanese Government as a whole will be issued only following consultation and following the attainment of agreement in the Far Eastern Commission.

4. All directives issued shall be filed with the Commission.

IV. Other Methods of Consultation

The establishment of the Commission shall not preclude the use of other methods of consultation on Far Eastern issues by the participating Governments.

V. Composition

1. The Far Eastern Commission shall consist of one representative of each of the States party to this agreement. The membership of the Commission may be increased by agreement among the participating Powers as conditions warrant by the addition of representatives of other United Nations in the Far East or having territories therein. The Commission shall provide for full and adequate consultations, as occasion may require, with representatives of the United Nations

1
Functions of Allied Kommandatura Berlin

Proposed 27 November 1945 and approved by the Allied Coordinating Committee 21 December 1945.

The Inter-Allied Kommandatura Berlin constituted by Articles 3 and 7, European Advisory Commission Basic Agreement on Control Machinery for Germany, 14 Nov. 1944 as amended 1 May 1945 will operate under the following general directives:

1. The Inter-Allied Kommandatura is responsible to the Control Council of the Allied Control Authority for the administration of Greater Berlin.
2. The Coordinating Committee will issue direct to the Kommandatura all orders and resolutions which in the opinion of the Control Authority are applicable to and will be executed in Greater Berlin.
3. All orders and resolutions of the Control Authority received through the Coordinating Committee will be implemented uniformly in all sectors of Berlin through the Allied Kommandatura.
4. Questions considered by the Allied Kommandatura Berlin at which unanimous agreement cannot be reached will at the request of any dissenting party be submitted to the Coordinating Committee of the Allied Control Authority for decision.
5. DELETED
6. Prior to being placed into effect, matters introduced unilaterally involving administration of Military Government of a particular sector in Berlin may be submitted to the Allied Kommandatura Berlin for possible application to all sectors.
7. The Inter-Allied Kommandatura Berlin has authority subject to these instructions to prescribe its own rules of procedure.

CONSTITUTION OF BERLIN

Approved by Allied Coordinating Committee
3 August 1946

To provide for the situation arising after the collapse of the national-socialist regime, and the occupation by the Allied Powers, and in continuation of the constitutional right, according to the City Statutes of 30 May 1853, to the Law on the formation of a new Municipality of Berlin of 27 April 1920, and the Law on the preliminary regulation of various problems of the municipal constitutional right of the City of Berlin of 30 March 1931, Berlin receives the following:

C O N S T I T U T I O NChapter I: GENERAL PROVISIONSArticle 1

- (1) Greater Berlin is the exclusively established Public Territorial Corporation for the Territory of the Municipality of Berlin.
- (2) Greater Berlin has to fulfil all the public duties in its district in accordance with this Constitution.
- (3) Greater Berlin bears the Arms and Flag with the Bear. Particulars hereof will be laid down in a special order.

Article 2

- (1) The whole of the German citizens of Greater Berlin express their will through their elected representative bodies.
- (2) All citizens of Greater Berlin are, within the framework of the effective laws, of equal status independent of Race, Sex, Confession and extent of property owned.
- (3) The representative bodies are the Stadtverordnetenversammlung and the Magistrat.

Article 3

- (1) The Stadtverordnetenversammlung is constituted on ground of general, equal, direct, and secret election by the inhabitants of Berlin, who are entitled to vote according to the principles of proportional representation.
- (2) The Members of the Magistrat will be elected by the Stadtverordnetenversammlung for the period of the election term. All political parties composing the Stadtverordnetenversammlung must be represented in the Magistrat if such parties demand it. The Members of the Magistrat must also be competent to fulfil their duties.
- (3) The elected Members will remain in office until the newly elected representatives and members of the Magistrat have been obligated.
- (4) The election of the Members of the Stadtverordnetenversammlung and details for this election will be given in the election regulations.

Chapter II: THE STADTVERORDNETENVERSAMMLUNGArticle 4

The Stadtverordnetenversammlung consists of 130 members (Stadtverordnete). They will be elected for two years.

Article 5

The Stadtverordnetenversammlung has the following duties:

- (1) The election of the members of the Magistrat.
- (2) The resolution on
 - (i) the Constitution of Berlin and its alterations,
 - (ii) all legal regulations (Verordnungen and Satzungen),
 - (iii) the settlement of the Budget, grants, and reimbursements for extraordinary expenditures,
 - (iv) the determination of the taxes,
 - (v) the discharge of the Annual Accounts after checking audit,
 - (vi) the taking up of loans,
 - (vii) the establishment of new, and the closing down of obsolete or unprofitable institutions and establishments,
 - (viii) the participation in new undertakings working as institutions of private or public right,
 - (ix) bestowing and renouncing the Freedom of the City.
- (3) The supervision of the execution of the Legal regulations resolved by the representatives as well as of the entire administration.

Article 6

- (1) Within two weeks after the publication of the final result of the elections to the Stadtverordnetenversammlung the Magistrat must summon those elected for the purpose of constituting the Stadtverordnetenversammlung, and to obligate them by handclasp at the beginning of the first meeting to conscientiously fulfil their duties.
- (2) In the first meeting the Stadtverordnetenversammlung elects from their midst for their term of office the Managing Committee, consisting of a Chairman and a secretary, and their deputies.
- (3) The Stadtverordnetenversammlung is to be summoned at least once a month. The meeting has to be called by the Chairman, with notice of the subjects to be discussed. Notice must be given at least two clear days before the meeting direct to every representative.

Extraordinary meetings of the Stadtverordnetenversammlung may be convened also by

- (i) the Chairman
- (ii) on demand of at least one fourth of the members, or

(iii) on demand of the Magistrat,

and, except in cases of utmost urgency, warning must also be given at least two clear days before the meeting direct to each of the members, with notice of the subject to be discussed.

- (4) On deliberation and voting on subjects touching the special private interests of a representative, this representative may not be present. His opinion can be expressed in writing, and must be heard.
- (5) Should a member lose his right to vote, he will be excluded from the Stadtverordnetenversammlung, and will lose his rights as a member of this body.
- (6) The Stadtverordnetenversammlung establishes its own order or procedure regulations.

Article 7

- (1) The sittings of the Stadtverordnetenversammlung are public. On application of the Magistrat or the Chairman or of a fifth of the representatives, the public may be excluded in the case of certain matters. A resolution on this point is passed in a secret sitting.
- (2) The Stadtverordnetenversammlung can establish committees in order to discuss certain general as well as individual problems. These elect from their midst a Chairman and a secretary for summoning meetings and presiding at these.
- (3) The Stadtverordnetenversammlung and its committees are competent to pass resolutions if at least one half of the members are present. The resolutions are, if not otherwise stipulated, passed with simple majority. In case of equal votes, the casting vote of the Chairman will decide. Resolutions upon alterations of the Constitution require a majority of two thirds.
- (4) Minutes are to be kept of the meetings. These have to contain the discussed motions, as well as the manner and result of the voting. Resolutions, as passed, are to be entered in a special book. The Minutes of the meeting, as well as the entry of the resolutions are to be signed by the Chairman who presided at the meeting, and by the secretary.

Article 8

The members of the Stadtverordnetenversammlung have the right of traveling free of charge on the public means of transportation within Berlin, and to receive a remuneration for each sitting and compensation for the loss of earnings accruing owing to the sitting.

Chapter III: THE MAGISTRAT

Article 9

- (1) The Magistrat consists of the Oberbuergermeister, three Buergermeisters, and a maximum of sixteen additional full time, salaried, members.
- (2) The members of the Magistrat take an oath in the presence of the Stadtverordnetenversammlung on taking up office, that they will impartially discharge their duties for the good of the community and in accordance with the law. If a member of the Magistrat breaks his oath or shows himself as completely unsuited for his office, he may be relieved of it, following upon a hearing before a Committee specially called by the Stadtverordnetenversammlung for this purpose. A decision to dismiss requires a two-thirds majority of the members of the Stadtverordnetenversammlung.

Article 10

- (1) The Magistrat is to be invited to all sittings of the Stadtverordnetenversammlung, and of its committees, with notice of the Agenda.
- (2) The Stadtverordnetenversammlung can demand the participation of a certain member of the Magistrat for the purpose of giving a report to the sitting. The members of the Magistrat are allowed at any time during the discussion to express their opinion.
- (3) The Magistrat is to be informed of all resolutions of the Stadtverordnetenversammlung.

Article 11

- (1) The Magistrat is the supreme, guiding, and executive organ of Greater Berlin, and represents Greater Berlin externally. The Magistrat is entirely responsible to the Stadtverordnetenversammlung, and subordinate to its instructions.

The Magistrat issues Ordinances and Statutes on the basis of, and for the purpose of the execution of the existing legislative provisions which have been adopted by the Allied Kommandatura and the Stadtverordnetenversammlung.

The Magistrat supervises the execution of these legislative provisions and ordinances.

The ordinances and directions of the Magistrat will be executed throughout the whole area of Greater Berlin.

Upon a two-thirds vote of the total membership of the Stadtverordnetenversammlung, a resolution may be forwarded to the Allied Kommandatura requesting dismissal of the Magistrat and stating reasons. If the Allied Kommandatura agrees, the Magistrat must immediately resign.

- (2) The Magistrat is authorized to bring up questions for the agenda of the Stadtverordnetenversammlung meetings, and to prepare proposals in an appropriate form for discussion at these meetings.
- (3) The Magistrat decides on the directives according to which the public tasks are to be carried through, and supervises the Bezirksaemter.
- (4) The Magistrat appoints, transfers, and dismisses all persons in the service of Greater Berlin, and supervises management, unless a member of the Magistrat, or the Bezirksamt, or a member of the latter has been charged therewith.
- (5) The Magistrat takes its decisions by simple majority of votes. In the case of equality of votes the casting vote of the Chairman will decide. The Magistrat is able to take decisions, if more than one half of its members are present.
- (6) While deliberating and voting on subjects touching the private interest of a member of the Magistrat, this member may not be present. His written explanation must be heard.
- (7) The Magistrat draws up its own order of procedure.

Article 12

- (1) The Oberbuergermeister is the Chairman of the Magistrat. He represents the Magistrat externally, conducts the sessions of the Magistrat, and directs the service supervision of the remaining members of the Magistrat.

- (2) The three Buergermeister are the permanent deputies of the Oberbuergermeister.
- (3) The Oberbuergermeister, or, in case of his incapacity, his Deputy, can temporarily act on his own initiative in cases belonging to the Magistrat's competency, which admit of no delay. The matter must be laid before the Magistrat at its next session for confirmation by way of resolution, or in cases of particular importance, at an extraordinary meeting. These decisions must not contradict the constitution and the principles of democracy.
- (4) The Magistrat, as leading and executive authority, conducts its business through departments, the number of which must not exceed 18. Each department has at its head a member of the Magistrat.
- (5) Each Member of the Magistrat performs independently, on its own responsibility, and in accordance with the directives obtained in Article 11, the duties entrusted to him by the representative bodies (Vertretungskoeper).

Article 13

The resolutions of the representative bodies (Vertretungskoeper) (Article 5 (2) and Article 11, para. 1) are binding for the District bodies only, if they have been passed by the Stadtverordnetenversammlung and Magistrat in agreement. Where agreement is not reached, a joint discussion between the Magistrat and the Stadtverordnetenversammlung is held, with the object of reaching an agreement. If an agreement is not attained through this joint discussion, the Stadtverordnetenversammlung will decide with a two-thirds majority of its members.

Chapter IV: THE BEZIRKSVERORDNETENVERSAMMLUNG

Article 14

- (1) For the purpose of local administration, Greater Berlin is divided into twenty Verwaltungsbezirks (Administrative Districts).
- (2) In each Verwaltungsbezirk, a Bezirksverordnetenversammlung (District Council), and a Bezirksamt (District Office) will be formed to look after local interests, and to carry on the work of the Bezirk.
- (3) Upon a unanimous resolution of the Bezirksverordnetenversammlung, and the Bezirksamt, an Administrative District can be divided into Ortsbezirke (Local Districts).

Article 15

- (1) The Bezirksverordnetenversammlung is established on the basis of a general, equal, direct, and secret election, by all persons entitled to vote, living in the Administrative District, according to the principles of proportional representation, and for the maximum period of two years.
- (2) For the Administrative Districts of up to 100,000 inhabitants, 30 District Representatives, for those of 100,000 up to 200,000 inhabitants, 40 District Representatives, and for those of 200,000 and more inhabitants, 45 District Representatives are to be elected.
- (3) The elections of the Bezirksverordnetenversammlung and the elections of the Stadtverordnetenversammlung take place on the same day. The elections of the Members of the Bezirksverordnetenversammlung and details for these elections will be given in the election regulations.

Article 16

- (1) The Bezirksverordnetenversammlung is to resolve on all affairs concerning the District, within the limits of the directives issued by the Stadtverordnetenversammlung, and the Magistrat.
- (2) The Bezirksverordnetenversammlung elects the members of the Bezirksamt according to the stipulations valid for the election of the Magistrat.
- (3) The Bezirksverordnetenversammlung annually prepares a survey on the requirements of the establishments and institutions administered by the district, as well as of the other District Administrations; this survey serves as a basis for the total Budget.
- (4) The Bezirksverordnetenversammlung supervises the execution of its resolutions, and the utilization of the means which are placed at the disposal of the local establishments and institutions of the Administrative District.

Article 17

- (1) Within a period of two weeks after the publication of the final result of the election of the Bezirksverordnetenversammlung, the Bezirksamt, in order to create the Bezirksverordnetenversammlung must summon the elected members and, at the beginning of the first meeting, must obligate the members by hand-clasp to perform conscientiously their duties.
- (2) During its first meeting, the Bezirksverordnetenversammlung elects from its midst the managing Committee, composed of a Chairman, a secretary, and their Deputies, who preside for the period of the election term.
- (3) The Bezirksverordnetenversammlung must be convened once a month. The convocation must be made by the Chairman, with notice of the Agenda. The notice must be transmitted to each District Representative at least 2 whole days before the day of the meeting.

Extraordinary meetings of the Bezirksverordnetenversammlung may be convened.

- (i) on the part of the Chairman,
- (ii) on demand of at least 1/4 of the District Representatives, or
- (iii) on demand of the Bezirksamt.

Apart from cases of the utmost urgency, the notice must enumerate the questions to be discussed, and must be transmitted to each District Representative at least 2 clear days before the day of the meeting.

- (4) The Bezirksverordnetenversammlung meets in public. On the application of the Bezirksamt, or the Chairman, or a fifth of the Representatives, the public may be excluded in the case of certain matters. The resolution on this is passed in a secret sitting.

The members of the Magistrat may take part in the meetings of the Bezirksverordnetenversammlung. The members of the Bezirksamt are to be invited, with notice of the agenda, to take part in all meetings of the Bezirksverordnetenversammlung and its Committees.

The Bezirksverordnetenversammlung can demand the presence of a certain member of the Bezirksamt as reporter. The members of the Magistrat and the Bezirksamt must be heard at any time during the deliberation.

- (5) While deliberating and voting on subjects touching the special private

interest of a member of the Bezirksverordnetenversammlung, this member may not be present. His written declaration must, however, be heard.

- (6) If a member of the Bezirksverordnetenversammlung loses his right to vote, he will be excluded from the Bezirksverordnetenversammlung and lose his rights due to him as a member.
- (7) The Bezirksamt must be informed on all resolutions of the Bezirksverordnetenversammlung.
- (8) The Members of the Bezirksverordnetenversammlung have the right of traveling free of charge on the public means of transportation within Berlin, and they receive a remuneration for each sitting, and compensation for the loss of earnings accruing owing to the sittings.
- (9) The Bezirksverordnetenversammlung draws up its own order of procedure.

Chapter V: THE BEZIRKSAMT

Article 18

- (1) The Bezirksamt consists of the District Buergermeister as Chairman, one Deputy, and not more than 9 salaried official members.
- (2) Every Bezirksamt member conducts independently, and under personal responsibility, the duties transferred to him by the election of the Bezirksverordnetenversammlung and according to the directives given in Article 11.
- (3) The members of the Bezirksamt take an oath before the Bezirksverordnetenversammlung on entering their office, that they will fulfil their duties unbiased, for the welfare of all, and in accordance with the law. If a member of the Bezirksamt breaks his oath, or shows himself as completely unsuited for his office, he may be relieved of it, following upon a hearing before a Committee specially called by the Bezirksverordnetenversammlung for this purpose. A decision to dismiss requires a two-thirds majority of the Bezirksverordnetenversammlung.
- (4) Upon a two-thirds vote of the total membership of Bezirksverordnetenversammlung a resolution may be forwarded to the Military Commandant of the Sector requesting dismissal of the Bezirksamt and stating reasons. If the Military Commandant of the Sector agrees, the Bezirksamt must immediately resign.

Article 19

- (1) The Bezirksamt is the executive subordinate authority in the affairs of the Administrative District. The Bezirksamt is absolutely responsible to the Bezirksverordnetenversammlung.
- (2) The Bezirksamt is also the executive organ of the Magistrat, and its duty is to fulfil the directives of the Magistrat. It is under the supervision of the Magistrat.
- (3) The Bezirksamt has to
 - i execute the resolutions of the Bezirksverordnetenversammlung,
 - ii administer the institutions and establishments of the District,
 - iii engage, transfer, and dismiss all persons who are in the service of the Administration of the District,
 - iv act as intermediary between the Bezirksverordnetenversammlung and the

representative bodies of Greater Berlin,

v represent Berlin externally in matters concerning the District.

- (4) In other respects the provisions of Article 11 (5) and (6) are decisive. Representatives of the Magistrat must be heard at any time during the discussion of the Bezirksamt.
- (5) The Bezirksbuergermeister is under the supervision of the Oberbuergermeister, and the other Bezirksamt members are under the supervision of the Bezirksbuergermeister.

Chapter VI: RELATIONSHIP BETWEEN ORGANS OF THE CENTRAL ADMINISTRATION,
AND THE BEZIRKS ADMINISTRATIONS

Article 20

- (1) The competency of the Local Administration, in the Administrative Districts, in relation to the Central Administration is to be regulated in the Main Statutes. In these, the sphere of affairs to be managed by the Central Administration is to be designated. All other administration affairs are to be attended to by the Administrative Districts.
- (2) The spheres of work are to be stated in such form that
 - (i) affairs which require uniform administration on account of their importance for the whole of Berlin, are left to the management of the Central Administration of the Magistrat;
 - (ii) all other affairs concerning the District itself are to be managed by the Bezirksamt, and the Bezirksamt must be allowed discretion in managing these affairs.
- (3) The spheres of the duties of the Districts may be different in the various Districts.

Article 21

The chief Statutes will regulate the Meetings and powers of the Buergermeisters' Council and define the methods considered necessary for the co-operation of the local and central Administrations. The chief Statutes have to be submitted to the Allied Kommandatura for approval.

Article 22

It is the privilege of the Magistrat in all cases, to prevent the execution of resolutions of the Bezirksverordnetenversammlung, and the Bezirksamt, if the interests of the Community make it necessary, or if the resolutions of the Bezirks authorities exceed their competence, or violate the law. In the resolutions of the Magistrat preventing the execution of Bezirksverordnetenversammlung and Bezirksamt resolutions, the grounds for the objection must be given.

Article 23

- (1) If no agreement is reached in the case of Article 22, every Corporation concerned may apply for a decision, within 2 weeks, from the date of the announcement of the objection.
- (2) This decision will be made by a Committee appointed by the Stadtverordnetenversammlung.

Chapter VII: BUDGET AND FINANCEArticle 24

- (1) The property of the territorial corporation is to be administered economically and carefully. It is to be maintained out of the means of the regular budget.
- (2) To provide for articles needing replacement, because they are too old, or have been worn out, or otherwise have depreciated in value, or because of increased requirements due to increasing demand, funds must be placed in reserve out of the ordinary Budget (Renewal and Extension Reserve).

Article 25

- (1) Public Undertakings must show a profit.
- (2) Statutes must be framed for undertakings without legal representation (City owned undertakings).
- (3) Budget management, administration of property, and the accounting for each undertaking must be effected in a manner permitting specific inquiry into their administration and financial results.

Article 26

- (1) Loans (annuities, bonds, and other credits, except cash credits) may only be raised within the extraordinary budget plan.
- (2) Loans may be taken up only for covering extraordinary and indisputable demands so far as other means for covering these demands are not available.
- (3) For each loan a redemption scheme must be set up. Loans which serve to satisfy recurring demands are to be redeemed before these arise anew.

Article 27

- (1) The entire income and expenditure of Greater Berlin are to be calculated for each fiscal year, and inserted in the budget plan. The budget plan is the basis for administering all revenues and expenses. As a rule, the expenses are sanctioned for one year.
- (2) In calculating the budget plan for Greater Berlin, special plans are to be made for the demands of the various Districts. For carrying them through, due discretion is left to each district.
- (3) If by the end of the fiscal year the budget plan for the next year has not yet been compiled, up to the time of application the Magistrat authorized to pay all expenses necessary, for maintaining legally based institutions, to enforce measures which are taken on a legal basis, to fulfil all legally valid obligations of Greater Berlin, and to proceed with work on buildings, supply, and other services for which in the budget plan of the preceding year, expenditure was already sanctioned.

Article 28

- (1) Surplus and extra expenses may only be paid with the approval of the Magistrat. Approval may only be given for indisputable requirements.
- (2) All excessive and extraordinary expenditure requires the subsequent consent of the Representative Bodies.
- (3) Extraordinary expenditure may be paid only if cover payment is assured.

Article 29

Persons in the service of Greater Berlin who are guilty of violating the regulations of Article 23, are responsible to the Corporation for the damage involved. The liability to render such compensation does not arise, if the action was taken in order to avoid a pressing danger to the Corporation which could not be foreseen, and if the contravention of the regulations was not excessive in view of the measures demanded by the emergency.

Article 30

- (1) The Treasurer must give the Representative bodies of Greater Berlin an account of the utilization of all revenues of the fiscal year, in the first six months of the following fiscal year, and must submit a summary on the entire assets and liabilities.
- (2) The accounts are to be examined and passed by the Hauptpruefungsamt on the basis of the budget plan and budget calculations. Details will be given in an Ordinance.
- (3) On the basis of the examination and statement of items carried through by the Hauptpruefungsamt, the Representative Bodies decide to pass the accounts.

Chapter VIII: PROVISIONS CONCERNING PUBLIC OFFICIALSArticle 31

- (1) All persons fulfilling superior duties in the Central Administration, and all employees in leading positions of the Central Administration are appointed, transferred, and dismissed by the Magistrat.
- (2) All persons who have to perform superior duties in the Administrative District, and all employees in leading positions of the District are appointed, transferred and dismissed by the Bezirksamt.
- (3) The transfer of persons who have to perform superior duties in the service of Berlin from an Administrative District to the Central Administration, or from one District to another, is decided upon by the Magistrat after hearing the respective Bezirksamt.

Article 32

All persons who have to exercise superior duties in the service of Berlin, in taking over their work, have to swear an oath that they will fulfil them impartially for the welfare of all, and according to the law. They receive fixed official remunerations for their work.

Chapter IX: EFFECTIVE LEGAL PROVISIONSArticle 33

- (1) A matter can only be regulated by an ordinance, if it is to be generally legal. This ordinance must be framed according to this Constitution, and announced in writing and publicly.
- (2) All ordinances are to be published within a term of one month after final resolution. They come into effect, failing other directions, on the seventh day after they are published.

Article 34

The organs which have been appointed or approved by the municipality of

Berlin, when this Constitution comes into force, in the Central Administration, as in the District Administration, will exercise the constitutional privileges until new organs are appointed.

Article 35

- (1) This Constitution comes into force on the day of its publication in Greater Berlin. All former directives, which are contrary to this Constitution, become void on the same day. The necessary directives for its execution will be issued by the Magistrat.
- (2) The Stadtverordnetenversammlung will deliberate in public meetings on the Draft of a new Constitution for Greater Berlin. This Draft is to be submitted to the Allied Powers for approval before 1 May 1948. As soon as this approval has been given, elections must be held according to the new Constitution.

Article 36

Except as may be specifically provided by the Allied Control Authority, the independent administration of Greater Berlin is subordinate to the Allied Kommandatura, and that of the Bezirks Administrations to the Military Governments in the respective sectors. All legal enactments which are accepted by the Stadtverordnetenversammlung, as well as ordinances and instructions issued by the Magistrat, must conform to the laws and ordinances of the Allied Powers in Germany and the Allied Kommandatura Berlin, and be sanctioned by the latter. Alterations in the Constitution, resignation of the Magistrat or of any of its members, as well as the appointment and discharge of leading officials of the city administration can only take effect with the sanction of the Allied Kommandatura Berlin.

The Bezirks Administrations are subordinate in their activities to the Military Government in the respective sectors.

This Draft of a Temporary Constitution for Greater Berlin has been elaborated by the Local Government Committee of the Allied Kommandatura.

FELDMAN
Garde Major
USSR

GLASER
Lt. Col.
U.S.

HAYES
Major
G.B.

ZIEGELMEYER
Capitaine
FR.

COORDINATING COMMITTEE MINUTES
(Meeting of 2 August 1946)

THE MEETING:

- (a) approved the proposed constitution in principle;
- (b) amended Articles 4, 12, and 36 as shown above;*
- (c) returned the proposed constitution to the Kommandatura,
 - (1) inviting its attention to the foregoing discussion;
 - (11) requesting it to consider the desirability of amending the constitution to give the Stadtverordnetenversammlung and Bezirksverordnetenversammlungen the right to demand, after due hearing, the dismissal of employees of the Magistrat and Bezirksaemter who violate the constitution; and
 - (111) authorizing it to take final action on the constitution without further reference to the Coordinating Committee, after having considered the necessity for the amendment referred to in (11) above.

* Articles 4, 12 and 36 are here published in their amended form.

ALLIED KOMMANDATURA BERLIN
Office of the Chairman Chief of Staff

SUBJECT: Constitution of Berlin

TO : Oberbuergermeister, City of Berlin

We believe that the re-establishment of a constitutional government in the City of Berlin is an historical event. In forwarding the present document to the Magistrat, together with an Allied Kommandatura Order, the Occupation Authorities again express their desire to establish political independence in Berlin, and give the population the right to determine by themselves the form of their government.

Berlin first received a democratic constitution in 1920. However, under the influence of the Nazi regime, the limitation of political freedom resulted in the fact that administrative and governmental departments of the City became crude tools of the fascist power.

The 1946 Constitution is a temporary document, destined to re-establish political freedom and pass it on to the population of Berlin. The constitution will transmit all powers into the hands of representatives elected by the population. The constitution requires that these elected representatives establish a Constitutional Assembly with the aim to begin immediately the work of drawing a more detailed draft of the constitution for the City of Berlin. It foresees a stable city government created on the basis of the general laws of 1853, 1920 and 1931.

The Allied Commandants have decided that this new constitution will be put into effect in October, when elections will be held, and at which time they will transfer all responsibility for the government of Berlin under the guidance of the Allied Kommandatura Berlin to the population of the City, firmly convinced that democratic developments will never cease.

<u>USSR</u>	<u>US</u>	<u>BR</u>	<u>FR</u>
Maj. Gen. KOTIKOV	Maj. Gen. KEATING	Maj. Gen. NARES	Brig. Gen. LANCON

3

Berlin Elections

The municipal elections of October 20, 1946 attracted much more public attention than the district and State diet elections for the whole Soviet Zone held the same day (see XX). The reason was that, with strict four-power supervision of the polls, the results could be relied upon to reflect electorate trends, unhampered by any pressure, more objectively than outside the city limits. Furthermore, in Berlin, the Social Democratic party, which in the Soviet Zone had been fused with the Communists to form the SED (Socialist Unity Party, cf. XX) was permitted to operate independently, even in the Soviet sector. The result was a serious setback for the Soviet-sponsored SED. The official tabulation of the election returns gives to the

Social Democrats	999,170 votes	(48.7%)
Christian Democrats	454,202 votes	(22.1%)
SED	405,992 votes	(19.8%)
Liberal Democrats	192,527 votes	(9.4%)
Not valid	39,164 votes	

Which City Council?

The new City Assembly met on November 26, 1946, to elect a City Council (Magistrat) which was to replace the original Soviet appointed council of the first period of occupation when all of Berlin was under Soviet administration. However, one day, before the meeting of the new Socialist-dominated assembly, the Soviet Military Governor of Berlin, Major General Alexander Kotikov, published an order in the name of the four-power Kommandatura, which made the reorganization of the Magistrat conditional on prior approval of the four Allies, thus reserving to himself a veto power against newly to be elected city officials. The three other Allied representatives on the Kommandatura protested against this Soviet move and advised the new City Assembly to proceed with the elections of the 16 councillors regardless of the Soviet decree. This was done, but on December 7 the old City Council refused to yield to its successor. For a few days it looked as if Berlin would have two city councils. But on December 10 the four members of the Kommandatura agreed in favor of the new council, but removed one member and held up approval of two more. Behind the particular issue, there was the major question of how Article 36 of the Berlin Constitution ought to be interpreted, which says that all legal enactments of the City Assembly as well as ordinances issued by the City Council must be sanctioned by the Allied Kommandatura. This was understood by the Soviet representative to mean that no decision of the city was to have the force of law unless it was passed upon by the four Allied Powers, while the American representative held the view that all enactments of the city were valid unless vetoed by all four Allied powers.

The Trade Union Dispute

Another dispute between the four powers arose over the question of voting procedure for the Berlin Trade Union elections scheduled for February 3, 1947. The Western powers, led by the U. S. representative, advocated a system favoring greater influence of groups other than the SED. This time the Soviet representative, Major General Kotikov, reversed the stand taken in the City Council controversy, and championed the right of the Berlin Trade Unions to decide their own affairs free of Allied interference. On February 10 this issue too was amiably settled by a compromise satisfactory from both the U. S. and the Soviet viewpoint.

Socialization of Industry

On February 13, 1947, the Berlin City Assembly adopted with 118 against 12 votes of the Liberal Democrats a bill to socialize all big enterprises and monopolistic corporations situated in Berlin. The measure patterned after Article 41 in the constitution of Hesse, and subject to approval by the Allied Kommandatura, provides for the expropriation of all enterprises "ripe for socialization." Compensation will be made to all owners and shareholders unless they are proven to be former Nazi activists or war criminals. Foreign shareholders will receive full and immediate compensation. The bill further provides that the City of Berlin shall act as administrator and trustee of all socialized enterprises until the creation of a central German government. The supervisory committee governing the socialized sector of Berlin economy will consist of delegates from City Magistrate, Assembly, Trade Unions, and Management.

needed to maintain the productive capacity of 7,500,000. This [proposal was accepted] for immediate implementation and the Coordinating Committee decided to refer the larger question at issue to the Control Council meeting of January 21. Clay and Sokolovsky desired communication to the press of the Coordinating Committee's current discussion but Robertson requested deferment of publicity pending Control Council action.

3. Coordinating Committee accepted with certain additions Russian counter-proposal on definition of restitution (see my 112, January 13, 2 p. m.). Clear text and summary of discussion furnished in separate telegram.¹⁵

Sent to Dept as 159; repeated to Moscow as 16 and London for personal attention Secretary Byrnes¹⁶ as 40.

MURPHY

740.00119 EW/1-1946: Telegram

The United States Political Adviser for Germany (Murphy) to the Acting Secretary of State

RESTRICTED

BERLIN, January 19, 1946—10 a. m.
[Received January 20—10:30 a. m.]

169. See my 112, January 13, 6 p. m., and my 89, January 11, 6 p. m. Following is text of definition of restitution based on Soviet counter proposal adopted by Coordinating Committee at its thirty-second meeting:

"1. The question of restitution of property removed by the Germans from Allied countries must be examined, in all cases, in light of the declaration of January 5, 1943.¹⁷

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

"Also falling under measure of restitution are identifiable goods produced during the period of occupation and which have been obtained by force. All other property removed by the enemy is eligible for restitution to the extent consistent with reparations. However, the United Nations retain the right to receive from Germany compensation for this other property removed as reparations.

¹⁵ Telegram 169, January 19, from Berlin, *infra*.

¹⁶ The Secretary of State was in London as Chairman of the United States delegation to the First Part of the First Session of the General Assembly of the United Nations.

¹⁷ Reference is to the Inter-Allied Declaration Against Acts of Dispossession, *Foreign Relations*, 1943, vol. 1, p. 443.

"3. As to goods of a unique character, restitution of which is impossible, special instructions will fix the categories of goods subject to replacement, the nature of these replacements and the conditions in which such goods could be replaced by equivalent objects.

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

"5. The Control Council will deal on all questions of restitution with the government of the country where the objects were looted."

General Clay approved the proposal on condition that restitution to be effected will not involve expenses to US occupation forces and he emphasized that the US accepted no obligation to replace art objects item by item. In reply to a question from the French as to meaning of "compensation" Russian member envisaged compensation as including equipment, manufactured goods, raw material of minerals delivered at Germany's expense as far as possible. French member requested the record include Soviet member's understanding that the Control Council will decide the question to what extent restitution is consistent with reparations.

Instructions envisaged under paragraph 3 of text above were referred to the Reparations Deliveries and Restitution Directorate for drafting and agreement will be reported to Control Council meeting 21 January subject to British member obtaining final approval from his Government of the above definition.¹⁸

Sent Dept repeated to Moscow as 17, Paris as 17, London as 40 and copy to Angell¹⁹ in Berlin.

MURPHY

¹⁸ Telegram 198, January 22, 4 p. m., from Berlin, reported on the discussion concerning restitution at the 17th meeting of the Allied Control Council, January 21. British General Playfair presided because of the illness of both Field Marshal Montgomery and General Robertson. "Playfair stated that the British delegation would accept the definition of restitution which was agreed by the French, Soviets and U.S., at the last Coordinating Committee meeting. British stated, however, that they accepted on the assumption similar to that stated by Clay for the U.S., namely, that definition would not result in any additional burdens on the German economy which would have to be met from British sources. The British also agreed with the Soviet provision that 'goods of a unique character' would relate only to artistic and cultural objects. Koenig suggested and obtained unanimous agreement that 'scientific apparatus' also be included. British pointed out that they agreed with the U.S. view that there would not be replacement of objects of art item for item." (740.00119-Control (Germany)/1-2246)

¹⁹ James W. Angell, United States representative, Allied Commission on Reparations.

US Dept. St. Bulletin 14
 (Jan. - Jun. 1946)
 Jan. 27, 1946

DEPARTMENT OF STATE BULLETIN

Call No
 57. 3: 14
 Jan. 14, 1946

Reparation From Germany

FINAL ACT AND ANNEX OF THE PARIS CONFERENCE ON REPARATION¹

CONFERENCE RECOMMENDATION

The Paris Conference on Reparation, which has met from 9 November 1945 to 21 December 1945, recommends that the Governments represented at the Conference should sign in Paris as soon as possible an Agreement on Reparation from Germany, on the Establishment of an Inter-Allied Reparation Agency and on the Restitution of Monetary Gold in the terms set forth below.²

DRAFT AGREEMENT ON REPARATION FROM GERMANY, ON THE ESTABLISHMENT OF AN INTER-ALLIED REPARATION AGENCY AND ON THE RESTITUTION OF MONETARY GOLD

The Governments of ALBANIA, The UNITED STATES of AMERICA, AUSTRALIA, BELGIUM, CANADA, DENMARK, EGYPT, FRANCE, The UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, GREECE, INDIA, LUXEMBOURG, NORWAY, NEW ZEALAND, The NETHERLANDS, CZECHOSLOVAKIA, The UNION OF SOUTH AFRICA and YUGOSLAVIA, in order to obtain an equitable distribution among themselves of the total assets which, in accordance with the provisions of this Agreement and the Provisions agreed upon at Potsdam on 1 August 1945 between the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, are or may be declared to be available as reparation from Germany (hereinafter referred to as German reparation), in order to establish an Inter-Allied Reparation Agency, and to settle an equitable procedure for the restitution of monetary gold,

HAVE AGREED as follows:

Part I

German Reparation

Article 1. Shares in Reparation.

A. German reparation (exclusive of the funds to be allocated under Article 8 of Part I of this

¹ Released to the press Jan. 15.

² On Jan. 14 the following governments signed the agreement: United States, France, United Kingdom, Netherlands, Belgium, Yugoslavia, and Luxembourg. The signatures represent 84.15 percent of Category A quotas, thus bringing the agreement into effect as of Jan. 14.

Agreement), shall be divided into the following categories:

Category A, which shall include all forms of German reparation except those included in *Category B*,

Category B, which shall include industrial and other capital equipment removed from Germany, and merchant ships and inland water transport.

B. Each Signatory Government shall be entitled to the percentage share of the total value of *Category A* and the percentage share of the total value of *Category B* set out for that Government in the Table of Shares set forth below:

TABLE OF SHARES.

Country	Category A	Category B
Albania.....	.05	.35
United States of America.....	28.00	11.80
Australia.....	.70	.95
Belgium.....	2.70	4.50
Canada.....	3.50	1.50
Denmark.....	.25	.35
Egypt.....	.05	.20
France.....	16.00	22.80
United Kingdom.....	28.00	27.80
Greece.....	2.70	4.35
India.....	2.00	2.90
Luxembourg.....	.15	.40
Norway.....	1.30	1.90
New Zealand.....	.40	.60
Netherlands.....	3.90	5.60
Czechoslovakia.....	3.00	4.30
Union of South Africa (o).....	.70	.10
Yugoslavia.....	6.60	9.60
Total.....	100.00	100.00

(o) The government of the Union of South Africa has undertaken to waive its claims to the extent necessary to reduce its percentage share of *Category B* to the figure of 0.1 per cent but is entitled, in disposing of German enemy assets within its jurisdiction, to charge the net value of such assets against its percentage share of *Category A* and a percentage share under *Category B* of 0.1 per cent.

C. Subject to the provisions of paragraph D below, each Signatory Government shall be entitled to receive its share of merchant ships determined in accordance with Article 5 of Part I of this Agreement, provided that its receipts of

merchant ships do not exceed in value its share in Category B as a whole.

Subject to the provisions of paragraph D below, each Signatory Government shall also be entitled to its Category A percentage share in German assets in countries which remained neutral in the war against Germany.

The distribution among the Signatory Governments of forms of German reparation other than merchant ships, inland water transport and German assets in countries which remained neutral in the war against Germany shall be guided by the principles set forth in Article 4 of Part I of this Agreement.

D. If a Signatory Government receives more than its percentage share of certain types of assets in either Category A or Category B, its receipts of other types of assets in that Category shall be reduced so as to ensure that it shall not receive more than its share in that Category as a whole.

E. No Signatory Government shall receive more than its percentage share of either Category A or Category B as a whole by surrendering any part of its percentage share of the other Category, except that with respect to German enemy assets within its own jurisdiction, any Signatory Government shall be permitted to charge any excess of such assets over its Category A percentage share of total German enemy assets within the jurisdiction of the Signatory Governments either to its receipts in Category A or to its receipts in Category B or in part to each Category.

F. The Inter-Allied Reparation Agency, to be established in accordance with Part II of this Agreement, shall charge the reparation account of each Signatory Government for the German assets within that Government's jurisdiction over a period of five years. The charges at the date of the entry into force of this Agreement shall be not less than 20 per cent of the net value of such assets (as defined in Article 6 of Part I of this Agreement) as then estimated, at the beginning of the second year thereafter not less than 25 per cent of the balance as then estimated, at the beginning of the third year not less than 33 1/3 per cent of the balance as then estimated, at the beginning of the fourth year not less than 50 per cent of the balance as then estimated, at the beginning of the fifth year not less than 90 per cent of the balance

as then estimated, and at the end of the fifth year the entire remainder of the total amount actually realized.

G. The following exceptions to paragraphs D and E above shall apply in the case of a Signatory Government whose share in Category B is less than its share in Category A:

(i) Receipts of merchant ships by any such Government shall not reduce its percentage share in other types of assets in Category B, except to the extent that such receipts exceed the value obtained when that Government's Category A percentage is applied to the total value of merchant ships.

(ii) Any excess of German assets within the jurisdiction of such Government over its Category A percentage share of the total of German assets within the jurisdiction of Signatory Governments as a whole shall be charged first to the additional share in Category B to which that Government would be entitled if its share in Category B were determined by applying its Category A percentage to the forms of German reparation in Category B.

H. If any Signatory Government renounces its shares or part of its shares in German reparation as set out in the above Table of Shares, or if it withdraws from the Inter-Allied Reparation Agency at a time when all or part of its shares in German reparation remain unsatisfied, the shares or part thereof thus renounced or remaining shall be distributed rateably among the other Signatory Governments.

Article 2. Settlement of Claims against Germany.

A. The Signatory Governments agree among themselves that their respective shares of reparation, as determined by the present Agreement, shall be regarded by each of them as covering all its claims and those of its nationals against the former German Government and its Agencies, of a governmental or private nature, arising out of the war (which are not otherwise provided for), including costs of German occupation, credits acquired during occupation on clearing accounts and claims against the Reichskreditkassen.

B. The provisions of paragraph A above are without prejudice to:

(i) The determination at the proper time of the

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forms, duration or total amount of reparation to be made by Germany;

(ii) The right which each Signatory Government may have with respect to the final settlement of German reparation; and

(iii) Any political, territorial or other demands which any Signatory Government may put forward with respect to the peace settlement with Germany.

C. Notwithstanding anything in the provisions of paragraph A above, the present Agreement shall not be considered as affecting:

(i) The obligation of the appropriate authorities in Germany to secure at a future date the discharge of claims against Germany and German nationals arising out of contracts and other obligations entered into, and rights acquired, before the existence of a state of war between Germany and the Signatory Government concerned or before the occupation of its territory by Germany, whichever was earlier;

(ii) The claims of Social Insurance Agencies of the Signatory Governments or the claims of their nationals against the Social Insurance Agencies of the former German Government; and

(iii) Banknotes of the Reichsbank and the Rentenbank, it being understood that their realization shall not have the result of reducing improperly the amount of reparation and shall not be effected without the approval of the Control Council for Germany.

D. Notwithstanding the provisions of paragraph A of this Article, the Signatory Governments agree that, so far as they are concerned, the Czechoslovak Government will be entitled to draw upon the Giro Account of the National Bank of Czechoslovakia at the Reichsbank, should such action be decided upon by the Czechoslovak Government and be approved by the Control Council for Germany, in connection with the movement from Czechoslovakia to Germany of former Czechoslovak nationals.

Article 3. Waiver of Claims Regarding Property Allocated as Reparation.

Each of the Signatory Governments agrees that it will not assert, initiate actions in international tribunals in respect of, or give diplomatic support to claims on behalf of itself or those persons entitled to its protection against any other Signa-

tory Government or its nationals in respect of property received by that Government as reparation with the approval of the Control Council for Germany.

Article 4. General Principles for the Allocation of Industrial and other Capital Equipment.

A. No Signatory Government shall request the allocation to it as reparation of any industrial or other capital equipment removed from Germany except for use in its own territory or for use by its own nationals outside its own territory.

B. In submitting requests to the Inter-Allied Reparation Agency, the Signatory Governments should endeavour to submit comprehensive programs of requests for related groups of items, rather than requests for isolated items or small groups of items. It is recognized that the work of the Secretariat of the Agency will be more effective, the more comprehensive the programs which Signatory Governments submit to it.

C. In the allocation by the Inter-Allied Reparation Agency of items declared available for reparation (other than merchant ships, inland water transport and German assets in countries which remained neutral in the war against Germany), the following general principles shall serve as guides:

(i) Any item or related group of items in which a claimant country has a substantial prewar financial interest shall be allocated to that country if it so desires. Where two or more claimants have such substantial interests in a particular item or group of items, the criteria stated below shall guide the allocation.

(ii) If the allocation between competing claimants is not determined by paragraph (i), attention shall be given, among other relevant factors, to the following considerations:

(a) The urgency of each claimant country's needs for the item or items to rehabilitate, reconstruct or restore to full activity the claimant country's economy;

(b) The extent to which the item or items would replace property which was destroyed, damaged or looted in the war, or requires replacement because of excessive wear in war production, and which is important to the claimant country's economy;

(c) The relation of the item or items to the general pattern of the claimant country's prewar

economic life and to programs for its postwar economic adjustment or development;

(d) The requirements of countries whose reparation shares are small but which are in need of certain specific items or categories of items.

(iii) In making allocations a reasonable balance shall be maintained among the rates at which the reparation shares of the several claimant Governments are satisfied, subject to such temporary exceptions as are justified by the considerations under paragraph (ii) (a) above.

Article 5. General Principles for the Allocation of Merchant Ships and Inland Water Transport.

A. (i) German merchant ships available for distribution as reparation among the Signatory Governments shall be distributed among them in proportion to the respective over-all losses of merchant shipping, on a gross tonnage basis, of the Signatory Governments and their nationals through acts of war. It is recognized that transfers of merchant ships by the United Kingdom and United States Governments to other Governments are subject to such final approvals by the legislatures of the United Kingdom and United States of America as may be required.

(ii) A special committee, composed of representatives of the Signatory Governments, shall be appointed by the Assembly of the Inter-Allied Reparation Agency to make recommendations concerning the determination of such losses and the allocation of German merchant ships available for distribution.

(iii) The value of German merchant ships for reparation accounting purposes shall be the value determined by the Tri-partite Merchant Marine Commission in terms of 1938 prices in Germany plus 15 per cent, with an allowance for depreciation.

B. Recognizing that some countries have special need for inland water transport, the distribution of inland water transport shall be dealt with by a special committee appointed by the Assembly of the Inter-Allied Reparation Agency in the event that inland water transport becomes available at a future time as reparation for the Signatory Governments. The valuation of inland water transport will be made on the basis adopted for the valuation of merchant ships or on an equitable basis in relation to that adopted for merchant ships.

Article 6. German External Assets.

A. Each Signatory Government shall, under such procedures as it may choose, hold or dispose of German enemy assets within its jurisdiction in manners designed to preclude their return to German ownership or control and shall charge against its reparation share such assets (net of accrued taxes, liens, expenses of administration, other *in rem* charges against specific items and legitimate contract claims against the German former owners of such assets).

B. The Signatory Governments shall give to the Inter-Allied Reparation Agency all information for which it asks as to the value of such assets and the amounts realized from time to time by their liquidation.

C. 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, pursuant to arrangements to be negotiated with the neutrals by these countries. The net proceeds of liquidation or disposition shall be made available to the Inter-Allied Reparation Agency for distribution on reparation account.

D. In applying the provisions of paragraph A above, assets which were the property of a country which is a member of the United Nations or its nationals who were not nationals of Germany at the time of the occupation or annexation of this country by Germany, or of its entry into war, shall not be charged to its reparation account. It is understood that this provision in no way prejudices any questions which may arise as regards assets which were not the property of a national of the country concerned at the time of the latter's occupation or annexation by Germany or of its entry into war.

E. The German enemy assets to be charged against reparation shares shall include assets which are in reality German enemy assets, despite the fact that the nominal owner of such assets is not a German enemy.

Each Signatory Government shall enact legislation or take other appropriate steps, if it has not already done so, to render null and void all transfers made, after the occupation of its territory or its entry into war, for the fraudulent purpose of cloaking German enemy interests, and

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thus saving them harmless from the effect of control measures regarding German enemy interests.

F. The Assembly of the Inter-Allied Reparation Agency shall set up a Committee of Experts in matters of enemy property custodianship in order to overcome practical difficulties of law and interpretation which may arise. The Committee should in particular guard against schemes which might result in effecting fictitious or other transactions designed to favour enemy interests, or to reduce improperly the amount of assets which might be allocated to reparation.

Article 7. Captured Supplies.

The value of supplies and other materials susceptible of civilian use captured from the German Armed Forces in areas outside Germany and delivered to Signatory Governments shall be charged against their reparation shares in so far as such supplies and materials have not been or are not in the future either paid for or delivered under arrangements precluding any charge. It is recognised that transfers of such supplies and material by the United Kingdom and United States Governments to other Governments are subject to such final approval by the legislature of the United Kingdom or the United States of America as may be required.

Article 8. Allocation of a Reparation Share to Non-repatriable Victims of German Action.

In recognition of the fact that large numbers of persons have suffered heavily at the hands of the Nazis and now stand in dire need of aid to promote their rehabilitation but will be unable to claim the assistance of any Government receiving reparation from Germany, the Governments of the United States of America, France, the United Kingdom, Czechoslovakia and Yugoslavia, in consultation with the Inter-Governmental Committee on Refugees, shall as soon as possible work out in common agreement a plan on the following general lines:

A. A share of reparation consisting of all the non-monetary gold found by the Allied Armed Forces in Germany and in addition a sum not exceeding 25 million dollars shall be allocated for the rehabilitation and resettlement of non-repatriable victims of German action.

B. The sum of 25 million dollars shall be met from a portion of the proceeds of German assets

in neutral countries which are available for reparation.

C. Governments of neutral countries shall be requested to make available for this purpose (in addition to the sum of 25 million dollars) assets in such countries of victims of Nazi action who have since died and left no heirs.

D. The persons eligible for aid under the plan in question shall be restricted to true victims of Nazi persecution and to their immediate families and dependents, in the following classes:

(i) Refugees from Nazi Germany or Austria who require aid and cannot be returned to their countries within a reasonable time because of prevailing conditions;

(ii) German and Austrian nationals now resident in Germany or Austria in exceptional cases in which it is reasonable on grounds of humanity to assist such persons to emigrate and providing they emigrate to other countries within a reasonable period;

(iii) Nationals of countries formerly occupied by the Germans who cannot be repatriated or are not in a position to be repatriated within a reasonable time. In order to concentrate aid on the most needy and deserving refugees and to exclude persons whose loyalty to the United Nations is or was doubtful, aid shall be restricted to nationals or former nationals of previously occupied countries who were victims of Nazi concentration camps or of concentration camps established by regimes under Nazi influence but not including persons who have been confined only in prisoners of war camps.

E. The sums made available under paragraphs A and B above shall be administered by the Inter-Governmental Committee on Refugees or by a United Nations Agency to which appropriate functions of the Inter-Governmental Committee may in the future be transferred. The sums made available under paragraph C above shall be administered for the general purposes referred to in this Article under a program of administration to be formulated by the five Governments named above.

F. The non-monetary gold found in Germany shall be placed at the disposal of the Inter-Governmental Committee on Refugees as soon as a plan has been worked out as provided above.

G. The Inter-Governmental Committee on Refugees shall have power to carry out the purposes of

the fund through appropriate public and private field organisations.

H. The fund shall be used, not for the compensation of individual victims, but to further the rehabilitation or resettlement of persons in the eligible classes.

I. Nothing in this Article shall be considered to prejudice the claims which individual refugees may have against a future German Government, except to the amount of the benefits that such refugees may have received from the sources referred to in paragraphs A and C above.

Part II

Inter-Allied Reparation Agency

Article 1. Establishment of the Agency.

The Governments signatory to the present Agreement hereby establish an Inter-Allied Reparation Agency (hereinafter referred to as the "Agency"). Each Government shall appoint a Delegate to the Agency and shall also be entitled to appoint an Alternate who, in the absence of the Delegate, shall be entitled to exercise all the functions and rights of the Delegate.

Article 2. Functions of the Agency.

A. The Agency shall allocate German reparation among the Signatory Governments in accordance with the provisions of this Agreement and of any other agreements from time to time in force among the Signatory Governments. For this purpose, the Agency shall be the medium through which the Signatory Governments receive information concerning, and express their wishes in regard to, items available as reparation.

B. The Agency shall deal with all questions relating to the restitution to a Signatory Government of property situated in one of the Western Zones of Germany which may be referred to it by the Commander of that Zone (acting on behalf of his Government), in agreement with the claimant Signatory Government or Governments, without prejudice, however, to the settlement of such questions by the Signatory Governments concerned either by agreement or arbitration.

Article 3. Internal Organization of the Agency.

A. The organs of the Agency shall be the Assembly and the Secretariat.

B. The Assembly shall consist of the Delegates and shall be presided over by the President of the

Agency. The President of the Agency shall be the Delegate of the Government of France.

C. The Secretariat shall be under the direction of a Secretary General, assisted by two Deputy Secretaries General. The Secretary General and the two Deputy Secretaries General shall be appointed by the Governments of France, the United States of America and the United Kingdom. The Secretariat shall be international in character. It shall act for the Agency and not for the individual Signatory Governments.

Article 4. Functions of the Secretariat.

The Secretariat shall have the following functions:

A. To prepare and submit to the Assembly programs for the allocation of German reparations;

B. To maintain detailed accounts of assets available for, and of assets distributed as, German reparation;

C. To prepare and submit to the Assembly the budget of the Agency;

D. To perform such other administrative functions as may be required.

Article 5. Functions of the Assembly.

Subject to the provisions of Articles 4 and 7 of Part II of this Agreement, the Assembly shall allocate German reparation among the Signatory Governments in conformity with the provisions of this Agreement and of any other agreements from time to time in force among the Signatory Governments. It shall also approve the budget of the Agency and shall perform such other functions as are consistent with the provisions of this Agreement.

Article 6. Voting in the Assembly.

Except as otherwise provided in this Agreement, each Delegate shall have one vote. Decisions in the Assembly shall be taken by a majority of the votes cast.

Article 7. Appeal from Decisions of the Assembly.

A. When the Assembly has not agreed to a claim presented by a Delegate that an item should be allocated to his Government, the Assembly shall, at the request of that Delegate and within the time limit prescribed by the Assembly, refer the question to arbitration. Such reference shall suspend the effect of the decision of the Assembly on that item.

B. The Delegates of the Governments claiming an item referred to arbitration under paragraph A above shall select an Arbitrator from among the other Delegates. If agreement cannot be reached upon the selection of an Arbitrator, the United States Delegate shall either act as Arbitrator or appoint as Arbitrator another Delegate from among the Delegates whose Governments are not claiming the item. If the United States Government is one of the claimant Governments, the President of the Agency shall appoint as Arbitrator a Delegate whose Government is not a claimant Government.

Article 8. Powers of the Arbitrator.

When the question of the allocation of any item is referred to arbitration under Article 7 of Part II of this Agreement, the Arbitrator shall have authority to make final allocation of the item among the claimant Governments. The Arbitrator may, at his discretion, refer the item to the Secretariat for further study. He may also, at his discretion, require the Secretariat to resubmit the item to the Assembly.

Article 9. Expenses.

A. The salaries and expenses of the Delegates and of their staffs shall be paid by their own Governments.

B. The common expenses of the Agency shall be met from the funds of the Agency. For the first two years from the date of the establishment of the Agency, these funds shall be contributed in proportion to the percentage shares of the Signatory Governments in Category B and thereafter in proportion to their percentage shares in Category A.

C. Each Signatory Government shall contribute its share in the budget of the Agency for each budgetary period (as determined by the Assembly) at the beginning of that period; provided that each Government shall, when this Agreement is signed on its behalf, contribute a sum equivalent to not less than its Category B percentage share of £50,000 and shall, within three months thereafter, contribute the balance of its share in the budget of the Agency for the budgetary period in which this Agreement is signed on its behalf.

D. All contributions by the Signatory Governments shall be made in Belgian francs or such other currency or currencies as the Agency may require.

Article 10. Voting on the Budget.

In considering the budget of the Agency for any budgetary period, the vote of each Delegate in the Assembly shall be proportional to the share of the budget for that period payable by his Government.

Article 11. Official Languages.

The official languages of the Agency shall be English and French.

Article 12. Offices of the Agency.

The seat of the Agency shall be in Brussels. The Agency shall maintain liaison offices in such other places as the Assembly, after obtaining the necessary consents, may decide.

Article 13. Withdrawal.

Any Signatory Government, other than a Government which is responsible for the control of a part of German territory, may withdraw from the Agency after written notice to the Secretariat.

Article 14. Amendments and Termination.

This Part II of the Agreement can be amended or the Agency terminated by a decision in the Assembly of the majority of the Delegates voting, provided that the Delegates forming the majority represent Governments whose shares constitute collectively not less than 80 per cent of the aggregate of the percentage shares in Category A.

Article 15. Legal Capacity, Immunities and Privileges.

The Agency shall enjoy in the territory of each Signatory Government such legal capacity and such privileges, immunities and facilities, as may be necessary for the exercise of its functions and the fulfilment of its purposes. The representatives of the Signatory Governments and the officials of the Agency shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Agency.

Part III

Restitution of Monetary Gold

Single Article.

A. All the monetary gold found in Germany by the Allied Forces and that referred to in paragraph G below (including gold coins, except those of numismatic or historical value, which shall be

restored directly if identifiable) shall be pooled for distribution as restitution among the countries participating in the pool in proportion to their respective losses of gold through looting or by wrongful removal to Germany.

B. Without prejudice to claims by way of reparation for unrestored gold, the portion of monetary gold thus accruing to each country participating in the pool shall be accepted by that country in full satisfaction of all claims against Germany for restitution of monetary gold.

C. A proportional share of the gold shall be allocated to each country concerned which adheres to this arrangement for the restitution of monetary gold and which can establish that a definite amount of monetary gold belonging to it was looted by Germany or, at any time after March 12th, 1938, was wrongfully removed into German territory.

D. The question of the eventual participation of countries not represented at the Conference (other than Germany but including Austria and Italy) in the above-mentioned distribution shall be reserved, and the equivalent of the total shares which these countries would receive, if they were eventually admitted to participate, shall be set aside to be disposed of at a later date in such manner as may be decided by the Allied Governments concerned.

E. The various countries participating in the pool shall supply to the Governments of the United States of America, France and the United Kingdom, as the occupying Powers concerned, detailed and verifiable data regarding the gold losses suffered through looting by, or removal to, Germany.

F. The Governments of the United States of America, France and the United Kingdom shall take appropriate steps within the Zones of Germany occupied by them respectively to implement distribution in accordance with the foregoing provisions.

G. Any monetary gold which may be recovered from a third country to which it was transferred from Germany shall be distributed in accordance with this arrangement for the restitution of monetary gold.

Part IV

Entry into Force and Signature.

Article 1. Entry into Force.

This Agreement shall be open for signature on behalf of any Government represented at the Paris

Conference on Reparation. As soon as it has been signed on behalf of Governments collectively entitled to not less than 80 per cent of the aggregate of shares in Category A of German reparation, it shall come into force among such Signatory Governments. The Agreement shall thereafter be in force among such Governments and those Governments on whose behalf it is subsequently signed.

Article 2. Signature.

The signature of each contracting Government shall be deemed to mean that the effect of the present Agreement extends to the colonies and overseas territories of such Government, and to territories under its protection of suzerainty or over which it at present exercises a mandate.

In witness whereof, the undersigned, duly authorized by their respective Governments, have signed in Paris the present Agreement, in the English and French languages, the two texts being equally authentic, in a single original, which shall be deposited in the Archives of the Government of The French Republic, a certified copy thereof being furnished by that Government to each Signatory Government.

----- for the Government of -----
194 .
----- for the Government of -----
194 .

UNANIMOUS RESOLUTIONS BY THE CONFERENCE

The Conference has also unanimously agreed to include the following Resolutions in the Final Act:

1. German Assets in the Neutral Countries.

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.

2. Gold transferred to the Neutral Countries.

The Conference unanimously resolves that, in conformity with the policy expressed by the United Nations Declaration Against Axis Acts of Dispossession of January 5th, 1943 and the United Nations Declaration on Gold of February 22nd,

1944, the countries which remained neutral in the war against Germany be prevailed upon to make available for distribution in accordance with Part III of the foregoing Agreement all looted gold transferred into their territories from Germany.

3. Equality of Treatment regarding Compensation for War Damage.

The Conference unanimously resolves that, in the administration of reconstruction or compensation benefits for war damage to property, the treatment accorded by each Signatory Government to physical persons who are nationals and to legal persons who are nationals of or are owned by nationals of any other Signatory Government, so far as they have not been compensated after the war for the same property under any other form or on any other occasion, shall be in principle not less favourable than that which the Signatory Government accords to its own nationals. In view of the fact that there are many special problems of reciprocity related to this principle, it is recognized that in certain cases the actual implementation of the principle cannot be achieved except through special agreements between Signatory Governments.

Reference to the Annex to the Final Act.

During the course of the Conference, statements were made by certain Delegates, in the terms set out in the attached Annex, concerning matters not within the competence of the Conference but having a close relation with its work. The Delegates whose Governments are represented on the Control Council for Germany undertook to bring those statements to the notice of their respective Governments.

In witness whereof, the undersigned have signed the present Final Act of the Paris Conference on Reparation.

Done in Paris on December 21, 1945, in the English and French languages, the two texts being equally authentic, in a single original, which shall be deposited in the Archives of the Government of the French Republic, certified copies thereof, being furnished by that Government to all the Governments represented at that Conference.

----- Delegate of the
Government of -----
----- Delegate of the
Government of -----

ANNEX.

1. Resolution on the subject of Restitution.

The Albanian, Belgian, Czechoslovak, Danish, French, Greek, Indian, Luxembourg, Netherlands and Yugoslav Delegates agree to accept as the basis of a restitution policy the following principles:

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

(b) In general, restitution should be confined to identifiable goods which (i) existed at the time of occupation of the country concerned, and were removed with or without payment; (ii) were produced during the occupation and obtained by an act of force.

(c) In cases where articles removed by the enemy cannot be identified, the claim for replacement should be part of the general reparation claim of the country concerned.

(d) As an exception to the above principles, objects (including books, manuscripts and documents) of an artistic, historical, scientific (excluding equipment of an industrial character), educational or religious character which have been looted by the enemy occupying Power shall, so far as possible, be replaced by equivalent objects if they are not restored.

(e) With respect to the restitution of looted goods which were produced during the occupation and which are still in the hands of German concerns or residents of Germany, the burden of proof of the original ownership of the goods shall rest on the claimants and the burden of proof that the goods were acquired by a regular contract shall rest on the holders.

(f) All necessary facilities under the auspices of the Commanders-in-Chief of the occupied Zones shall be given to the Allied States to send expert missions into Germany to search for looted property and to identify, store and remove it to its country of origin.

(g) German holders of looted property shall be compelled to declare it to the control authorities; stringent penalties shall be attached to infractions of this obligation.

2. Resolution on Reparation from Existing Stocks and Current Production.

The Delegates of Albania, Belgium, Czechoslo-

vakia, Denmark, Egypt, France, Greece, India, Luxembourg, the Netherlands, Norway and Yugoslavia,

In view of the decision of the Crimea Conference that Germany shall make compensation to the greatest possible extent for the losses and suffering which she has inflicted on the United Nations,

Considering that it will not be possible to satisfy the diverse needs of the Governments entitled to reparation unless the assets to be allocated are sufficiently varied in nature and the methods of allocation are sufficiently flexible,

Express the hope that no category of economic resources in excess of Germany's requirements as defined in Part III, article 15 of the Potsdam Declaration, due account being taken of article 19 of the same Part, shall in principle be excluded from the assets, the sum total of which should serve to meet the reparation claims of the Signatory Governments.

It thus follows that certain special needs of different countries will not be met without recourse, in particular, to German existing stocks, current production and services, as well as Soviet reciprocal deliveries under Part IV of the Potsdam Declaration.

It goes without saying that the foregoing shall be without prejudice to the necessity of achieving the economic disarmament of Germany.

The above-named Delegates would therefore deem it of advantage were the Control Council to furnish the Inter-Allied Reparation Agency with lists of existing stocks, goods from current production and services, as such stocks, goods or services become available as reparation. The Agency should, at all times, be in a position to advise the Control Council of the special needs of the different Signatory Governments.

3. Resolution regarding Property in Germany belonging to United Nations or their nationals.

The Delegates of Albania, Belgium, Czechoslovakia, France, Greece, Luxembourg, the Netherlands, Norway and Yugoslavia, taking into account the fact that the burden of reparation should fall on the German people, recommend that the following rules be observed regarding the allocation as reparation of property (other than ships) situated in Germany:

(a) To determine the proportion of German property available as reparation, account shall be taken of the sum total of property actually consti-

tuting the German economy, including assets belonging to a United Nation or to its nationals, but excluding looted property, which is to be restored.

(b) In general, property belonging legitimately to a United Nation or to its nationals, whether wholly owned or in the form of a shareholding of more than 48 percent, shall so far as possible be excluded from the part of German property considered to be available as reparation.

(c) The Control Council shall determine the cases in which minority shareholdings of a United Nation or its nationals shall be treated as forming part of the property of a German juridical person and therefore having the same status as that juridical person.

(d) The foregoing provisions do not in any way prejudice the removal or destruction of concerns controlled by interests of a United Nation or of its nationals when this is necessary for security reasons.

(e) In cases where an asset which is the legitimate property of one of the United Nations or its nationals has been allocated as reparation, or destroyed, particularly in the cases referred to in paragraphs *b*, *c*, and *d* above, equitable compensation to the extent of the full value of this asset shall be granted by the Control Council to the United Nation concerned as a charge on the German economy. This compensation shall, when possible, take the form of a shareholding of equal value in German assets of a similar character which have not been allocated as reparation.

(f) In order to ensure that the property in Germany of persons declared by one of the United Nations to be collaborators or traitors shall be taken from them, the Control Council shall give effect in Germany to legislative measures and juridical decisions by courts of the United Nation concerned in regard to collaborators or traitors who are nationals of that United Nation or were nationals of that United Nation at the date of its occupation or annexation by Germany or entry into the war. The Control Council shall give to the Government of such United Nation facilities to take title to and possession of such assets and to dispose of them.

4. Resolution on captured War Materiel.

The Delegates of Albania, Belgium, Denmark, Luxembourg, the Netherlands, Norway, Czechoslovakia and Yugoslavia, taking account of the fact that part of the war materiel seized by the

Allied Armies in Germany is of no use to these Armies but would, on the other hand, be of use to other Allied countries recommend:

(a) That, subject to Resolution 1 of this Annex on the subject of restitution, war material which was taken in the Western Zones of Germany and which has neither been put to any use nor destroyed as being of no value, and which is not needed by the Armies of Occupation or is in excess of their requirements, shall be put at the disposal of countries which have a right to receive reparation from the Western Zones of Germany, and;

(b) That the competent authorities shall determine the available types and quantities of this materiel and shall submit lists to the Inter-Allied Reparation Agency, which shall proceed in accordance with the provisions of Part II of the above Agreement.

5. Resolution on German Assets in the Julian March and the Dodecanese.

The Delegates of Greece, the United Kingdom and Yugoslavia (being the Delegates of the countries primarily concerned), agree that:

(a) The German assets in Venezia Giulia (Julian March) and in the Dodecanese shall be taken into custody by the military authorities in occupation of those parts of the territory which they now occupy, until the territorial questions have been decided; and

(b) As soon as a decision on the territorial questions has been reached, the liquidation of the assets shall be undertaken in conformity with the provisions of Paragraph A of Article 6 of Part I of the foregoing Agreement by the countries whose sovereignty over the disputed territories has been recognized.

6. Resolution on Costs relating to Goods Delivered from Germany as Reparation.

The Delegates of Albania, Australia, Belgium, Canada, Denmark, Egypt, France, Greece, India, Luxembourg, Norway, New Zealand, the Netherlands, Czechoslovakia and Yugoslavia, recommend that the costs of dismantling, packing, transporting, handling, loading and all other costs of a general nature relating to goods to be delivered from Germany as reparation, until the goods in question have passed the German frontier, and expenditure incurred in Germany for the account of the Inter-Allied Reparation Agency or of the Dele-

gates of the Agency should, in so far as they are payable in a currency which is legal tender in Germany, be paid as a charge on the German economy.

7. Resolution on the Property of War Criminals.

The Delegates of Albania, Belgium, France, Luxembourg, Czechoslovakia and Yugoslavia express the view that:

(a) The legislation in force in Germany against German war criminals should provide for the confiscation of the property in Germany of those criminals, if it does not do so already;

(b) The property so confiscated, except such as is already available as reparation or restitution, should be liquidated by the Control Council and the net proceeds of the liquidation paid to the Inter-Allied Reparation Agency for division according to the principles set out in the foregoing Agreement.

8. Resolution on Recourse to the International Court of Justice.

The Delegates of Albania, Australia, Belgium, Denmark, France, Luxembourg, the Netherlands, Norway, Czechoslovakia and Yugoslavia recommend that:

Subject to the provisions of Article 3 of Part I of the foregoing Agreement, the Signatory Governments agree to have recourse to the International Court of Justice for the solution of every conflict of law or of competence arising out of the provisions of the foregoing Agreement which has not been submitted by the parties concerned to amicable solution or arbitration.

Agriculture in the Americas

The following article of interest to readers of the BULLETIN appeared in the December issue of *Agriculture in the Americas*, a publication of the Department of Agriculture, copies of which may be obtained from the Superintendent of Documents, Government Printing Office, for 10 cents each:

"Brazil's Sugar Industry", by Hubert Maness, now assistant agricultural economist, American Embassy, Chungking, and formerly vice consul at Rio de Janeiro.

for light industry must be allowed to vary as time requires. He stressed that production in light industry must be based on world markets and, therefore, that amount and type of production may vary considerably. He also stressed that in the plan it has been assumed that the Saar and Ruhr are an integral part of Germany; that, this being a Governmental problem, it could not be raised in the Control Council, but that, if boundary or other changes should be made, the agreed plan would have to be modified as it probably would no longer be sound.

Koeltz stated that French interpretation was that maximum amount of food imports indefinitely was 1.5 billion reichsmarks (1936 value). He stated that this would be the French position even if the population should exceed the assumed 66.5 million. He stated that any population increase could not be allowed to affect the proposed commercial balance.

Robertson agreed with Clay's above comments and emphasized the British contention that a population of over 66.5 million would require modification of the plan. He asked Sokolovsky for the Russian view on this point, and received the reply that the British worry on this score is imaginary as Sokolovsky believes that the population figure will prove to be under 66.5 million. Robertson stressed that he could not accept the plan until it had been referred to the British Govt. It was agreed that the provisional acceptance of the plan would allow the Economic Directorate to proceed.

MURPHY

740.00119 Control (Germany)/2-2446: Telegram

The Secretary of State to the United States Political Adviser for Germany (Murphy)

SECRET

WASHINGTON, March 12, 1946—6 p. m.

645. Secretary of War has written letter to me⁵⁸ of tenor comparable to your 602 of Feb 24. He reports Military Govt belief that unwillingness of Western Powers to take a stand on frontier issue is giving Soviet Military Govt and Communist Party great propaganda advantage. Letter concludes "It is also reported that it will be difficult to prevent the spread of this development unless the political parties in the Western Zone can be given license to discuss the above and similar issues, that to permit a discussion of the French position will no doubt arouse French resentment; and it is believed that the prohibition against political discussions of critical issues interferes

JCS Directive on restriction to
(certain countries)

GERMANY

Mar. 16, 1946

525

with the achievement of our objectives in Germany. In view of the foregoing it appears desirable that our present policy concerning political discussions in Germany should be reviewed as a matter of urgency."

Your comments would be appreciated.

BYRNES

#6250/3-846: Telegram

The Secretary of State to the United States Political Adviser for Germany (Murphy)

SECRET

WASHINGTON, March 14, 1946—9 p. m.

667. Our attitude toward French reservation on level of German dyestuff production as detailed in urtel 729 and 730⁵⁹ and by Clay to War Dept. in CC 1112 of March 8,⁶⁰ is firm opposition. Dept urges that you make no concessions to French on pharmaceuticals and dye-stuffs. War Dept sending similar message. We do not regard this issue as a disarmament issue in any respect.

Dept believes that French desire to use this action to replace Germany in export markets. U.S. policy as stated in Para. 7 of Dec 12, statement⁶¹ is opposed to such action.

French participated with Germans in pre-war dyestuffs cartel. U.S. is anxious to break the German cartel but does not wish in doing so to foster a French-controlled world cartel. We are not yet satisfied with the abrogation of French-German dye-industry arrangement made during the occupation.

You are authorized to communicate the substance of U.S. views as stated in this cable to French representatives in Berlin if necessary.⁶²

Sent to Berlin as 667 repeat to Paris as 1185 and Brussels as 229 for Angell as 180.

BYRNES

740.00119 EW/3-1646: Circular telegram

The Secretary of State to Certain Diplomatic Representatives⁶³

U.S. URGENT

RESTRICTED

WASHINGTON, March 16, 1946—8 a. m.

Following is substance of JCS directive to Commanders US zones

⁵⁸ Both telegrams dated March 8, pp. 520 and 523, respectively.

⁵⁹ Not printed.

⁶⁰ Statement by the Department of State on the Reparation Settlement and the Peacetime Economy of Germany; for text, see Department of State *Bulletin*, December 16, 1945, p. 960.

⁶¹ Telegram 884, March 26, 11 p. m., from Berlin, reported final acceptance by the French of the figures previously accepted provisionally, i.e., productive capacity of 332 million reichsmarks for pharmaceuticals, 36,000 tons for dyestuffs and 11.4 percent of 1936

Germany and Austria re restitution to Italy, Hungary, Rumania and Finland and to Austria from Germany which is supplement to outstanding directive re restitution to United Nations.

Pending agreement in Control Council on scope of restitution⁴⁴ to above-named countries US zone commanders instructed to undertake interim program of restitution to governments of these countries of specified categories of identifiable property acquired by Germany through act of force or removed to Germany or Austria without compensation and removed from Italy between Sept 3, 1943 to May 15, 1945; from Hungary between Jan 20, 1945 and May 15, 1945; from Rumania between Sept 12, 1944 and May 15, 1945; from Finland between Sept 19, 1944 and May 15, 1945 and from Austria between March 12, 1938 and May 15, 1945.⁴⁵

Following summarizes categories of property covered by directive (a) whole range of cultural and artistic works, museum collections, libraries, archives, etc. (Restitution of this category requires only submission of satisfactory proof of identifiability by claimant Govt irrespective of circumstances of removal.) (b) Heavy and power-driven industrial and agricultural equipment, communication, power and transportation equipment, except sea-going vessels (c) other property (except gold, securities and foreign currencies) found in storage or bulk form. (Restitution of this category need not be made if zone commander considers restitution would jeopardize minimum requirements German or Austrian economy or require additional US assistance to Germany or Austria).

Zone commander may defer restitution transportation equipment pending formulation of over-all program so as not to reduce available transportation below need for purposes of occupation, minimum requirements of German and Austrian economy and recommendations of ECITO.

⁴⁴ Under cover of despatch 3224, April 27, Mr. Murphy transmitted the text of a paper (CORC/P (46) 143, April 17) agreed upon by the Coordinating Committee, establishing quadripartite procedures for restitution to be observed by the zonal commanders in each zone in implementing the agreed definition of restitution, contained in telegram 169, January 19, from Berlin, p. 489. Concerning the eligibility of nations to file claims, it reads: "No nation shall be eligible for restitution unless its territory was occupied in whole or in part by the German armed forces or the forces of her allies and unless it is a United Nation, or shall have been specified by the Allied Control Council." (740.00119 EW/4-2746)

⁴⁵ In a circular telegram dated July 1, the Department changed the periods covering restitution of property as follows: "Property in question was taken from Italy during period of 25 July 1943 to 15 May 1945; from Hungary during period 15 Oct 1944 to 15 May 1945; from Rumania during period 23 Aug 1944 to 15 May 1945 and from Finland during period 2 Sept 1944 to 15 May 1945. Period for Austria remains unchanged, i.e., 12 Mar 1938 to 15 May 1945." (740.00119-EW/7-146)

Subsequently, as reported in War Department's telegram 87749, December 14, from the Joint Chiefs of Staff to General McNarney (not printed); Bulgaria and Albania were added to the list of countries eligible for restitution with the limiting dates September 9, 1944, to May 15, 1945, and July 25, 1943, to May 15, 1945, respectively (SWNCC 204).

Please deliver to govt to which you are accredited memo following lines:

"Pending agreement on scope of restitution among occupying powers of Germany and Austria the govt of US has instructed the Commanders in Chief of US zones of occupation in Germany and Austria to undertake an interim program of restitution to the govt of (blank) of identifiable property other than gold securities and currencies removed from (blank) during the period from (blank) to (blank).

"Accordingly govt of US invites the (blank) govt to submit to the US govt one or more lists of such property which (blank) govt has reason to believe may be located in US zones of occupation in Germany or Austria. These lists should, so far as possible, refer separately to such property believed to be in Germany and Austria. They should further contain as much description of property as possible and as may be required to enable occupying authorities to identify property and should include all available info as to location of property.

"Following the receipt of these lists, which may be submitted *seriatim* and which may indicate priorities in the urgency of return, it is intended, where necessary, to invite (blank) govt to send a small mission to US zones of occupation in Germany and Austria for purpose of identifying such of the listed property as each of the occupying authorities may have been able to discover in his zone."

Lists received by mission should be transmitted directly to Murphy in Germany or Erhardt in Austria for delivery to US military authorities. Please make available to Dept duplicates of any lists forwarded to Berlin or Vienna. For your info, practice has been for military authorities to extend at appropriate time invitation to govts concerned for missions to proceed to US zone.

BYRNES

740.00119 Control (Germany)/3-1946: Telegram

The United States Political Adviser for Germany (Murphy) to the Secretary of State

SECRET
URGENT

BERLIN, March 19, 1946—10 p. m.
[Received March 24—8:41 a. m.]

814. Your 645, March 12, 6 p. m., regarding letter from Secretary of War on political discussions in Germany. It is true in my opinion that uncertainty regarding the German western settlement, and also French opposition to central German administrative agencies, national trade unions and national political party activity, provide excellent material for German left propoganda which is not distasteful to our Soviet colleagues. This propoganda includes public criticism by Soviet-sponsored Germans of the conduct of affairs in the western zones. We, however, do not wish to be placed in a position of lending approval to

4. For the consideration of urgent problems affecting both southern and northern Korea and for the elaboration of measures establishing permanent coordination in administrative-economic matters between the United States command in southern Korea and the Soviet command in northern Korea, a conference of the representatives of the United States and Soviet commands in Korea shall be convened within a period of two weeks.

XVIII

**PLAN OF THE ALLIED CONTROL COUNCIL FOR REPARATIONS
AND THE LEVEL OF POST-WAR GERMAN ECONOMY**

March 26, 1946²

The plan for reparations and the level of postwar German economy in accordance with the Berlin protocol:

1. In accordance with the Berlin protocol the Allied Control Council is to determine the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparations. The guiding principles regarding the plan for reparations and the level of the post-war German economy, in accordance with the Berlin protocol, are:

(a) Elimination of the German war potential and the industrial disarmament of Germany.

(b) Payment of reparations to the countries which had suffered from German aggression.

(c) Development of agriculture and peaceful industries.

(d) Maintenance in Germany of average living standards not exceeding the average standard of living of European countries (excluding the United Kingdom and the Union of Soviet Socialist Republics).

(e) Retention in Germany, after payment of reparations, of sufficient resources to enable her to maintain herself without external assistance.

2. In accordance with these principles, the basic elements of the plan have been accepted. The assumptions of the plan are:

(a) That the population of postwar Germany will be 66.5 millions.

(b) That Germany will be treated as a single economic unit.

(c) That exports from Germany will be acceptable in the international markets.

Prohibited Industries

1. In order to eliminate Germany's war potential, the production of arms, ammunition, and implements of war as well as all types of aircraft and sea-going ships is prohibited and will be prevented.

2. All industrial capital equipment for the production of the following items is to be eliminated:

(a) Synthetic gasoline and oil.

(b) Synthetic rubber.

(c) Synthetic ammonia.

(d) Ball and taper-roller bearings.

(e) Heavy machine tools of certain types.

²The Plan was adopted by the Allied Control Council in Berlin on March 26, 1946 and released to the press in Berlin March 28, in Washington April 1, 1946. Department of State, *Bulletin*, Vol. XIV (1946), pp. 636-639.

(f) Heavy tractors.

(g) Primary aluminum.

(h) Magnesium.

(i) Beryllium.

(j) Vanadium produced from Thomas Slags.

(k) Radioactive materials.

(l) Hydrogen peroxide above 50 percent strength.

(m) Specific war chemicals and gases.

(n) Radio transmitting equipment.

Facilities for the production of synthetic gasoline and oil, synthetic ammonia and synthetic rubber, and ball and taper-roller bearings will be temporarily retained to meet domestic requirements until the necessary imports are available and can be paid for.

Restricted Industries, Metallurgical Industries

1. Steel

(a) The production capacity of the steel industry to be left in Germany should be 7,500,000 ingot tons. This figure to be subject to review for further reduction should this appear necessary.

(b) The allowable production of steel in Germany should not exceed 5,800,000 ingot tons in any future year without the specific approval of the Allied Control Council, but this figure will be subject to annual review by the Control Council.

(c) The steel plants to be left in Germany under the above program should, as far as practicable, be the older ones.

2. Non-ferrous metals. The annual consumption of non-ferrous metals (including exports of products containing these metals) is fixed at the following quantities:

Copper	140,000 tons
Zinc	135,000 tons
Lead	120,000 tons
Tin	8,000 tons
Nickel	1,750 tons

Chemical Industries

1. Basic chemicals. In the basic-chemical industries there will be retained 40 percent of the 1936 production capacity (measured by sales in 1936 values). This group includes the following basic chemicals: nitrogen, phosphate, calcium carbide, sulphuric acid, alkalis, and chlorine. In addition, to obtain the required quantities of fertilizer for agriculture, existing capacity for the production of nitrogen through the synthetic-ammonia process will be retained until the necessary imports of nitrogen are available and can be paid for.

2. Other chemicals. Capacity will be retained for the group of other chemical production in the amount of 70 percent of the 1936 production capacity (measured by sales in 1936 values). This group includes chemicals for building supplies, consumer-goods items, plastics, industrial supplies, and other miscellaneous chemical products.

3. Dyestuffs, pharmaceuticals, and synthetic fibers. In the pharmaceutical industry there will be retained capacity for the annual production of 80 percent

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of the 1936 production (measured by sales in 1936 values). Capacity will be retained to produce annually 36,000 tons of dyestuffs and 185,000 tons of synthetic fibers.

Machine Manufacturing and Engineering

1. Machine tools. For the machine-tool industry there will be retained 11.4 percent of 1938 capacity, with additional restrictions on the type and size of machine tools which may be produced.

2. Heavy engineering. In the heavy-engineering industries there will be retained 31 percent of 1938 capacity. These industries produce metallurgical equipment, heavy mining machinery, material-handling plants, heavy power equipment (boilers and turbines, prime movers, heavy compressors, and turbo-blowers and turbopumps).

3. Other mechanical engineering. In other mechanical-engineering industries there will be retained 50 percent of 1938 capacity. This group produces constructional equipment, textile machinery, consumer-goods equipment, engineering small tools, food-processing equipment, woodworking machines, and other machines and apparatus.

4. Electroengineering. In the electroengineering industries there will be retained 50 percent of 1938 production capacity (based on sales in 1936 values). Capacity to produce heavy electrical equipment is to be reduced to 30 percent of 1938 production or 40,000,000 reichsmarks (1936 value). Heavy electrical equipment is defined as generators and converters, 6,000 kw. and over; high-tension switch gear; and large transformers, 1,500 kva and over. Electroengineering, other than heavy electrical equipment, includes electric lamps and light fittings, installation materials, electric heating and domestic appliances, cables and wires, telephone and telegraph apparatus, domestic radios, and other electrical equipment. Export of specified types of radio receiving sets is forbidden.

Transport Engineering

1. Transportation industry.

(a) In the automotive industry capacity will be retained to produce annually 80,000 automobiles, including 40,000 passenger cars, 40,000 trucks, and 4,000 light road tractors.

(b) Capacity will be retained to produce annually 10,000 motorcycles with cylinder sizes between 60 and 250 cc. Production of motorcycles with cylinder sizes of more than 250 cc. is prohibited.

(c) In the locomotive industry available capacity will be used exclusively for the repair of the existing stock of locomotives in order to build up a pool of 15,000 locomotives in 1949. A decision will be made later as to the production of new locomotives after 1949.

(d) Sufficient capacity will be retained to produce annually 30,000 freight cars, 1,350 passenger coaches, and 400 luggage vans.

2. Agricultural machinery. To permit maximization of agriculture, capacity will be retained for an annual production of 10,000 light agricultural tractors. Existing capacity for the production of other agricultural equipment, estimated at 80 percent of 1938 levels, is to be retained, subject to restrictions on the type and power of the equipment which may be produced.

3. Spare parts. In estimating capacities there will be taken into account the production of normal quantities of spare parts for transport and agricultural machinery.

4. Optics and precision instruments. Capacity will be retained to produce precision instruments in the value of 340,000,000 reichsmarks (1936 value), of which 220,000,000 reichsmarks is estimated as required for domestic use and 120,000,000 reichsmarks for export. A further limitation for this industry is possible, subject to the recommendation of the Committee for the Liquidation of German War Potential.

Mining Industries

1. Coal. Until the Control Council otherwise decides, coal production will be maximized as far as mining supplies and transport will allow. The minimum production is estimated at 155,000,000 tons (hard coal equivalent), including at least 45,000,000 tons for export. The necessary supplies and services to this end will be arranged to give the maximum production of coal.

2. Potash. The production of potash is estimated at over 100 percent of the 1938 level.

Electric Power

There will be retained an installed capacity of 9,000,000 kw.

Cement

Capacity will be retained to produce 8,000,000 tons of cement annually.

Other Industries

1. The estimated levels of the following industries have been calculated as shown as necessary for the German economy in 1949:

(a) Rubber. 50,000 tons, including 20,000 tons from reclaimed rubber and 30,000 tons from imports.

(b) Pulp, paper, and printing. 2,129,000 tons, based on 26 kg. per head per annum in 1949 plus 400,000 tons for export.

(c) Textiles and clothing industries. 665,000 tons of fiber, based on 10 kg. per head for 1949 and including 2 kg. for export.

(d) Boots and shoes. 113,000,000 pairs, based on 1.7 pairs per head in 1949 (figure excludes needs of occupying forces).

Production may exceed the above estimates in this paragraph (other industries) unless otherwise determined by the Control Council.

2. Building. No level will be determined for 1949. The industry will be free to develop within the limits of available resources and the licensing system.

3. Building-materials industries (including cement). Existing capacity will be retained. Production will be in accordance with building licensing and export requirements.

4. Other unrestricted industries. For the following industries no levels have been determined for 1949. These industries are free to develop within the limitations of available resources. These industries are as follows:

(a) Furniture and woodwork.

(b) Flat glass, bottle glass, and domestic glass.

(c) Ceramics.

(d) Bicycles.

(e) Motorbicycles under 60 cc.

(f) Potash.

General Level of Industry

It is estimated that the general effect of the plan is a reduction in the level

of industry as a whole to a figure about 50 or 55 percent of the prewar level in 1938 (excluding building and building-materials industries).

Exports and Imports

The following agreement has been reached with respect to exports and imports:

(a) That the value of exports from Germany shall be planned as 3,000,000,000 reichsmarks (1936 value) for 1949, and that sufficient industrial capacity shall be retained to produce goods to this value and to cover the internal requirements in Germany in accordance with the Potsdam Declaration.

(b) That approved imports will not exceed 3,000,000,000 reichsmarks (1936 value), as compared with 4,200,000,000 reichsmarks in 1936.

(c) That of the total proceeds from exports it is estimated that not more than 1,500,000,000 reichsmarks can be utilized to pay for imports of food and fodder if this will be required, with the understanding that, after all imports approved by the Control Council are paid for, any portion of that sum not needed for food and fodder will be used to pay for costs of occupation, and services such as transport insurance, etc.

Determination of Capacities Available for Reparations

1. After the approval of this plan, the existing capacities of the separate branches of production shall be determined, and a list of enterprises available for reparations shall be compiled.

2. After decisions have been given on the matters now referred to the coordinating committee, the Economic Directorate would propose to prepare the final plan embodying these decisions and including a description of the various features of the plan, such as: disarmament, reparations, postwar German economy, and the German balance of trade.

XIX

ALLIED AGREEMENT ON CONTROL MACHINERY FOR AUSTRIA

June 28, 1946¹

Preamble

The Governments of the United Kingdom of Great Britain and Northern Ireland, the United States of America, the Union of Soviet Socialist Republics and the Government of the French Republic (hereinafter called the four powers):

In view of the declaration issued at Moscow on November 1, 1943, in the name of the Governments of the United Kingdom, the United States of America and the Union of Soviet Socialist Republics, whereby the three governments announced their agreement that Austria should be liberated from German domination, and declared that they wished to see reestablished a free and independent Austria, and in view of the subsequent declaration issued at Algiers on November 16, 1943, by the French Committee of National Liberation concerning the independence of Austria;

Considering it necessary, in view of the establishment, as a result of free elec-

¹The agreement was approved by the Allied Commission May 24, 1946 for reference to the four governments for final approval. It was officially signed by the four members of the Commission on June 28, 1946. Department of State, *Bulletin*, Vol. XV (1946), pp. 175-178.

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tions held in Austria on November 25, 1945, of an Austrian Government recognized by the Four Powers, to redefine the nature and extent of the authority of the Austrian Government and of the functions of the Allied Organization and Forces in Austria and thereby to give effect to Article 14 of the agreement signed in the European Advisory Commission on July 4, 1945.

Have agreed as follows:

Article One

The authority of the Austrian Government shall extend fully throughout Austria, subject only to the following reservations:

(A) The Austrian Government and all subordinate Austrian authorities shall carry out such directions as they may receive from the Allied Commission.

(B) In regard to the matters specified in Article 5 below neither the Austrian Government nor any subordinate Austrian authority shall take action without the prior written consent of the Allied Commission.

Article Two

(A) The Allied Organization in Austria shall consist of: 1. An Allied Council, consisting of four high commissioners, one appointed by each of the Four Powers;

2. An Executive Committee, consisting of one high ranking representative of each of the high commissioners;

3. Staffs appointed respectively by the Four Powers, the whole organization being known as the Allied Commission for Austria.

(B) 1. The authority of the Allied Commission in matters affecting Austria as a whole shall be exercised by the Allied Council of the executive committee or the staffs appointed by the Four Powers when acting jointly.

2. The high commissioners shall within their respective zones ensure the execution of the decisions of the Allied Commission and supervise the execution of the directions of the central Austrian authorities.

3. The high commissioners shall also ensure within their respective zones that the actions of the Austrian Provincial authorities deriving from their autonomous functions do not conflict with the policy of the Allied Commission.

(C) The Allied Commission shall act only through the Austrian Government or other appropriate Austrian authorities except:

1. To maintain law and order if the Austrian authorities are unable to do so;

2. If the Austrian Government or other appropriate Austrian authorities do not carry out directions received from the Allied Commission;

3. Where, in the case of any of the subjects detailed in Article Five below, the Allied Commission acts directly.

(D) In the absence of action by the Allied Council, the four several high commissioners may act independently in their respective zones in any matter covered by subparagraphs 1 and 2 of subparagraph C of this article and by Article 5, and in any matter in respect of which power is conferred on them by the agreement to be made under Article 8 subparagraph A of this agreement.

(E) Forces of occupation furnished by the Four Powers will be stationed in the respective zones of occupation in Austria and Vienna as defined in the agreement on zones of occupation in Austria and the administration of the City of Vienna, signed in the European Advisory Commission on July 9, 1945.

Clay, Lucius (1950)

NY: Doubleday

tributed much toward making the Germans understand the humane characteristics of the American people. Spending much of my time in Berlin, I became more familiar with the work of its club than with others, although I appreciated and was grateful for the contribution which all made to the accomplishment of our objectives. At one Christmas season the Berlin club sponsored a community drive which raised more than \$40,000 from the relatively small American contingent in Berlin and some of our visitors. During the blockade it published an *Operation Vittles* cookbook which earned more than \$10,000 in its initial publication. This was a collection of recipes spiced with the humor of occupation, as for instance the American who ordered a dry martini and got three (*drei*). While these funds were used for general charitable purposes, they were applied largely to the support of hospitals for the young and to help needy and ailing children. Supplies were distributed by members of the club, giving a valuable personal touch to its work. Not enough has been said of the part played by our American women and children in Germany, and too much of what was said was devoted to the few who lived lavishly in the midst of poverty. Perhaps as a group we did tend to live too much together. If so, this did not prevent our women and children from giving freely of their time to work without stint to relieve distress. This they did while living in a deficit economy in which needed articles had to be ordered from the United States, but they brought the touch of home into everyday life.

The spring of 1946 was significant, too, in that it marked the first meeting of the Council of Foreign Ministers to consider the German problem. Although the Council had held its initial meeting in London in September, 1945, it had not at that time discussed Germany. Murphy and I used the 1945 occasion to report to Secretary Byrnes on our program in Germany. I must admit we were more optimistic then with respect to the possible success of quadripartite government than was warranted by future events. By the spring of 1946 much of this optimism had gone.

Shortly after reporting to Secretary Byrnes with General Eisenhower's approval in October 1945, I had returned to the United States to discuss the revision of our policy directive JCS/1067, which had been modified to some extent by the Potsdam Protocol. There seemed to be no difference in thinking among the representatives of

Clay's "first comprehensive review of the German problem,"

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the several departments in Washington charged with its preparation, and my own suggestions were received with favorable comment. James Riddleberger, of the State Department, headed the drafting committee and was confident that the revised directive would be in our hands in a few weeks. Actually it had not materialized in the spring of 1946, and did not reach us until July 1947.¹⁰

Therefore, I believed it was timely to submit a report on the general situation in Germany together with my recommendations to Secretary Byrnes and his advisers in the State Department before the first Paris meeting of the Council of Foreign Ministers. My report was in letter form and as it apparently did not reach the heads of departments I decided to repeat it, somewhat condensed, by cable. General McNarney concurred and authorized me to dispatch this cable, which was submitted in May. Since it was my first comprehensive review of the German problem, I repeat it almost in full:¹¹

Further progress in settlement of German problems requires firm definition of economic unity agreed at Potsdam. De-industrialization and reparations policies are based on treatment of Germany as an economic unit, which has always been interpreted as fully inclusive of that part remaining after the allocation of territory to Poland and Russia. If a common economic policy is to be fully implemented in all zones of Germany, central administrative agencies are essential. If they cannot be obtained and/or the boundaries of Germany are to be changed, the present concept of Potsdam becomes meaningless.

After one year of occupation, zones represent air-tight territories with almost no free exchange of commodities, persons, and ideas. Germany now consists of four small economic units which can deal with each other only through treaties, in spite of the fact that no one unit can be regarded as self-supporting, although British and Russian zones could become so. Economic unity can be obtained only through free trade in Germany and a common policy for foreign trade designed to serve Germany as a whole. A common financial policy is equally essential. Runaway inflation accompanied by economic paralysis may develop at any moment. Drastic fiscal reforms to reduce currency and monetary claims, and to deal with debt structure, are essential at earliest possible date. These can not be obtained by independent action of the several zones. Common policies and nationwide implementation are equally essential for transportation,

communications, food and agriculture, industry and foreign trade, if economic recovery is to be made possible.

Immediate decisions are imperative that the Rhineland and Ruhr are to remain within the German political and economic structure even if internationalized; that the Saar is or is not to be ceded to France; that the indigenous resources of Germany are to be equally available throughout Germany and where used for exports proceeds are to be available to provide essential imports for all Germany; that zonal boundaries serve only to delineate areas of occupation and not as internal barriers for the German people; that central administrative agencies either under a provisional government or to be placed under a provisional government, should be established without delay. As it now stands, economic integration is becoming less each day, with Soviet and French Zones requiring approval for practically each item leaving their zones, and with the British and our zones in self defense moving in the same direction.

The post-war level of industry to be left Germany, which serves as a basis for reparations, is based on treatment of Germany as an economic unit. Its execution under other conditions would be absolutely impossible as it would leave economic chaos in Germany. It would particularly affect the U. S. Zone which has no raw materials and would create a continuing financial liability for the United States for many years. In the absence of agreements essential to economic unity, we have discontinued the dismantling of reparations plants except those approved for advance deliveries, as further dismantling would result in disaster if we are unable to obtain economic unity. If economic unity proves impossible, only those plants in the U. S. Zone which were designed solely for production of war munitions should be removed. If economic unity is obtained, there is no reason why the reparations plan should not be implemented promptly. Much pressure is developing to revise the reparations plan in favor of production for reparations. This ignores the real danger which Germany would still present if restored to full industrial strength. Much has been written relative to importance of German industry to the recovery of Europe. It is my considered opinion that it will take from three to five years to bring German industry to the level now agreed, and that the removal of plants for reparations purposes has no major bearing on the extent of economic recovery during this period. Unfortunately, the level of industry plan does not

make specific provisions for small numbers of miscellaneous peaceful industries, and hence such industries can be removed from the eastern zone without violation of either Potsdam or the level of industry plan. Implementation of the reparations plan should also require a cessation in the taking of products as reparations until and unless an import-export balance is obtained. Finally, it must be recognized that any modification in the boundaries of occupied Germany will require a revision of the program. The loss of the Saar would not require a serious revision. The loss of the Rhineland and the Ruhr would require complete revision.

(Political Structure) It is feasible now to establish concurrently (with the administrative agencies agreed at Potsdam) a provisional government to which these agencies would report. We would propose that the initial provisional government would correspond roughly to the Council of Minister Presidents now established in the U. S. Zone. A Council of Minister Presidents of the States of all four zones would be established with the requisite coordinating committees to supervise the approved central agencies and to effect coordination on other matters of internal policy. This council would be charged with the preliminary draft of a constitution to be placed before an elected constitutional convention, which would prepare for ratification by the people the future constitution for the German state, subject to approval of the Allied Control Authority. We believe the following principles should be fundamental:

- a. Germany should be a federal state composed of between 9 and 15 states, organized either by economic areas or by traditional political divisions. Each of these states would be politically autonomous, except for the specific functions ceded to the federal government. Bavaria and Gross Hesse in U. S. Zone would be ideal states. The present amalgamation of North Wuerttemberg and North Baden would be discontinued in favor either of two states or of a combined Wuerttemberg-Baden state. Similar state units have been or could be established in the other zones.
- b. The constitution must contain the essentials of democracy, to wit: All political power must originate with the people and be subject to their control; there must be frequent reference of programs and leadership to popular elections; elections must

be held under competitive conditions in which there are at least two competing parties; political parties must be democratic in character and clearly distinguished from governmental instrumentalities; the basic rights of the individual must be preserved by law; government must be exercised through rule of law; and the powers of the federal government must be limited in the constitution to those agreed by the several states composing the federal government. While the constitutions of individual states need not agree, they must be democratic in makeup and must provide for some delegation of powers to the county and the community level. The constitutions of the several states must provide for the exercise of all powers reserved to the states and not given to the federal government.

- c. Prior to the writing and adoption of the new constitution, a provisional central government of the type previously indicated should be established at the earliest possible date. As soon as the central administrative agencies are established they should work directly with state organizations, and zonal organizations established by the occupying powers should be dissolved.

A special paper on the Ruhr has been presented to the Secretary of State at his request. It points out that Ruhr coal and steel represent Germany's chief assets. Under the present boundary of Germany, practically all of its steel and all of its industrial coal come from the Ruhr. It would be impossible to obtain a balanced export-import program with the removal of the Ruhr. The separation of the Ruhr-Rhineland area would in itself turn the remainder of Germany into a pastoral economy. It would particularly affect the U. S. Zone where industry is largely of the assembly type and can not exist without coal and steel from the Ruhr. If it had to pay for this coal and steel in a separate currency, it would have a continuing deficit for many years. Politically, the separation of the Ruhr-Rhineland area would create permanent political unrest and every patriotic German citizen would begin now to plan for such political and military alliances as would promise some day to return this area to Germany. It violates the principle of self-determination. Facing reality, the United States agreed to the transfer of certain areas in Germany to Russia, Poland and Czechoslovakia. However, recognizing the impossibility of a successful incorporation of these areas into the respective countries

as long as the population was German, it was further agreed to remove their entire German population. Manifestly, the large population in the Ruhr could not be removed. Its removal would cripple industry in the area. Moreover, it is clear that there is no place available to which this population could be moved. Hence, it is our view that the political or economic separation of the Ruhr-Rhineland would be a world disaster.

We would propose the establishment of a Ruhr Control Authority for only the coal and steel industry in the area. This Authority would take over ownership and possession of the properties, issuing Class A common stock to those present owners cleared from Nazi associations, which would be the only stock entitled to dividends. Control would be exercised through Class B stock in the hands of the Ruhr Control Authority composed of such nations as may be agreed. The proposed authority would operate under existing quadripartite government until a German government is established and its relationship to that government would be specified in the peace treaty. The Authority would have complete control over the volume of production and would require such exports as are agreed in the Allied Control Authority or specified in the peace settlement. Under this Authority, general management would be left in German hands and the Authority itself would operate within the political and economic framework of Germany. The creation of the Ruhr and the Rhineland as separate states in a federal structure should facilitate the operation of the Ruhr Control Authority.

In concluding, we are of the view that our proposals herein will be generally acceptable to the British. In theory, since they accord with Potsdam, they should be acceptable to the Russians, although in detail many difficulties will arise with the Russian representatives. Basically, it is expected that these proposals will be strongly resisted by the French. However, if agreement cannot be obtained along these broad lines in the immediate future, we face a deteriorating German economy which will create a political unrest favorable to the development of communism in Germany and a deterrent to its democratization. The next winter will be critical under any circumstances and a failure to obtain economic unity before the next winter sets in will make it almost unbearable. The sufferings of the German people will be a serious charge against democracy and will develop a sympathy which may well defeat our other objectives in Germany.

The British and U. S. Zones together could, within a few years, become self-supporting although food would have to be provided during this period until industry could be rehabilitated sufficiently to provide requisite exports to support food imports. Recognizing fully the political implications of such a merger it is our belief here that even these implications would not be as serious as the continuation of the present air-tight zones. If French and Russian agreement to these basic principles cannot be obtained, we would recommend strongly that the British be approached to determine their willingness to combine their zone of occupation with ours. If the British are willing for this merger to be accomplished, the French and Russian representatives should be advised that it is our proposal to effect this merger before winter, even though we would much prefer to obtain Allied unity in the treatment of Germany as a whole.

This report contained the first proposal for bizonal merger. I had discussed its substance with Secretary Byrnes in Paris in the spring of 1946, but the cable itself had somehow been lost in the maze of bureaucracy and never reached him. When he returned to Paris for the next meeting, in July, I pointed out to him the positive nature of Communist propaganda in Germany and the necessity for an early public statement of United States policy which would nullify the effectiveness of the Communist appeal. Secretary Byrnes, Senators Connally and Vandenberg, and Mr. Cohen agreed that a statement was needed. Byrnes believed it was an announcement of major import which should be delivered by the Secretary of State at an appropriate time and place, which pleased me very much. When Molotov used two Paris conferences to spread Soviet propaganda, Byrnes determined that the appropriate place for his statement was in Germany. He discussed this with Connally and Vandenberg and the latter in particular felt strongly that the Secretary should make the statement in the form of a speech and in Germany as soon as feasible. As a result September 6 was fixed as the date on which Byrnes would address an audience composed largely of occupation personnel, but with key German officials included, in Stuttgart.

This was the major development of the occupation so far. Our Secretary of State came to Germany to announce a constructive

policy which we would follow alone if necessary because we believed it in the interest of all Europe. Byrnes came first to Berlin by air. His party included Mrs. Byrnes, Senator and Mrs. Connally, Senator and Mrs. Vandenberg, Mr. H. Freeman Matthews (later our Ambassador to Sweden), Miss Cassie Connor, private secretary to Secretary Byrnes and an old friend, and Mr. and Mrs. Frank (Anne O'Hare) McCormick. Mr. Charles E. Bohlen and Mr. Michael McDermott of the State Department went directly to Stuttgart to check arrangements for the address and for the handling of news by the large number of correspondents assembled in that city.

Byrnes discussed his speech with me in Berlin. I was impressed both with its straightforward simplicity and with its constructive tone. At the time he was considering the elimination or at least the modification of a sentence which read: "As long as an occupation force is required in Germany, the Army of the United States will be a part of that occupation force." I urged him with all the persuasion at my power not to change one word because it would be the most welcome part of his speech, not just in Germany but throughout Europe. It seemed essential even then to express the determination of the United States to remain in Europe until stability came to alleviate the terror which resulted from Communist expansion. Byrnes agreed with me but felt that this statement was so important that it should be cleared with the President. As he was unable to reach Truman by telephone, he cabled the proposed sentence so that he could be advised if change was felt desirable. No reply was received, and the statement not only had the desired effect but also was the first expression by a high American official of our firm intent to maintain our position in Europe.

We went from Berlin to Stuttgart on the same evening that Byrnes arrived in Berlin, using a private train designed for Hitler's use and heavily armor-plated underneath. While the decoration of the train was heavy from our point of view, it was luxuriously equipped to include sunken black marble bathtubs in the private suites prepared for Hitler and his immediate staff. Before we arrived in Stuttgart I arranged for the four minister-presidents of the states in our zone to call at the train to pay their respects. They remained for a brief talk with Byrnes, Connally, and Vandenberg, during which they expressed their appreciation for American assistance and for the co-operation of military government in their effort to

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80th Congress 1st Session 1947

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"International Agreements Other Than Treaties"

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Agreement between the United States of America and other governments
respecting reparation to non-repatriable victims of German action.
Signed at Paris June 14, 1946; effective June 14, 1946.

June 14, 1946
[T. I. A. S. 1594]

CRF.

A G R E E M E N T

ON A PLAN FOR ALLOCATION OF A REPARATION SHARE TO NON-REPATRIABLE VICTIMS OF GERMAN ACTION

AGREEMENT ON A PLAN FOR ALLOCATION OF A REPARATION SHARE TO NON-REPATRIABLE VICTIMS OF GERMAN ACTION.

Post, p. 3171.

In accordance with the provisions of Article 8 of the Final Act of the Paris Conference on Reparation, the Governments of the United States of America, France, the United Kingdom, Czechoslovakia and Yugoslavia, in consultation with the Inter-Governmental Committee on Refugees, have worked out, in common agreement, the following plan to aid in the rehabilitation and resettlement of nonrepatriable victims of German action. In working out this plan the signatory Powers have been guided by the intent of Article 8, and the procedures outlined below are based on its terms:

Distribution of funds.

In recognition of special and urgent circumstances, the sum of \$25,000,000, having been made available by Allied governments as a priority on the proceeds of the liquidation of German assets in neutral countries, is hereby placed at the disposal of the Inter-Governmental Committee on Refugees or its successor organization for distribution to appropriate public and private field organizations as soon as they have submitted practicable programs in accordance with this Agreement.

Use of assets for rehabilitation, etc.

Post, p. 3173.

A. It is the unanimous and considered opinion of the Five Powers that in light of Paragraph H of Article 8 of the Paris Agreement on Reparation, the assets becoming available should be used not for the compensation of individual victims but for the rehabilitation and resettlement of persons in eligible classes, and that expenditures on rehabilitation shall be considered as essential preparatory outlays to resettlement. Since all available statistics indicate beyond any reasonable doubt that the overwhelming majority of eligible persons under the provisions of Article 8 are Jewish, all assets except as specified in Paragraph B below are allocated for the rehabilitation and resettlement of eligible Jewish victims of Nazi action, among whom children should receive preferential assistance. Eligible Jewish victims of Nazi action are either refugees from Germany or Austria who do not desire to return to these countries, or German and Austrian Jews now resident in Germany or Austria who desire to emigrate, or Jews who were nationals or former nationals of previously occupied countries and who were victims of Nazi concentration camps or concentration camps established by regimes under Nazi influence.

B. The sum of \$2,500,000, amounting to ten percent, arising out of the \$25,000,000 priority on the proceeds of German assets in neutral countries, ten percent of the proceeds of the "non-monetary gold", and five percent of the "heirless funds" shall be administered by the Inter-Governmental Committee on Refugees or its successor organization through appropriate public and private organizations for the

rehabilitation and resettlement of the relatively small numbers of non-Jewish victims of Nazi action who are in need of resettlement. Eligible non-Jewish victims of Nazi action are refugees from Germany and Austria who can demonstrate that they were persecuted by the Nazis for religious, political, or racial reasons and who do not desire to return, or German and Austrian nationals, similarly persecuted, who desire to emigrate.

C. The Director of the Inter-Governmental Committee on Refugees or the Director General of the successor organization shall under the mandate of this Agreement make funds available for programs submitted by the appropriate field organizations referred to in Paragraphs A and B above as soon as he has satisfied himself that the programs are consistent with the foregoing. Only in exceptional circumstances may the cost of resettlement programs exceed a maximum of \$1,000 per adult and \$2,500 per child under twelve years of age. The action of the Inter-Governmental Committee on Refugees or its successor organization shall be guided by the intent of Article 8 and by this Agreement which is to place into operation as quickly as possible practicable programs of rehabilitation and resettlement submitted by the appropriate field organizations.

D. In addition to the \$25,000,000 sum the Inter-Governmental Committee on Refugees or its successor organization is hereby authorized to take title from the appropriate authorities to all "non-monetary gold" found by the Allies in Germany and to take such steps as may be needed to liquidate these assets as promptly as possible, due consideration being given to secure the highest possible realizable value. As these assets are liquidated, the funds shall be distributed in accordance with Paragraphs A and B above.

E. Furthermore, pursuant to Paragraphs C and E of Article 8, in the interest of justice, the French Government on behalf of the Five Governments concluding this Agreement, are making representations to the neutral Powers to make available all assets of victims of Nazi action who died without heirs. The Governments of the United States of America, the United Kingdom, Czechoslovakia, and Yugoslavia are associating themselves with the French Government in making such representations to the neutral Powers. The conclusion that ninety-five percent of the "heirless funds" thus made available should be allocated for the rehabilitation and resettlement of Jewish victims takes cognizance of the fact that these funds are overwhelmingly Jewish in origin, and the five percent made available for non-Jewish victims is based upon a liberal presumption of "heirless" funds" non Jewish in origin. The "heirless funds" to be used for the rehabilitation and resettlement of Jewish victims of Nazi action should be made available to appropriate field organizations. The "heirless funds" to be used for the rehabilitation and resettlement of non-Jewish victims of Nazi action should be made available to the Inter-Governmental Committee on Refugees or its successor organization for distribution to appropriate public and private field organizations. In making these joint representations, the signatories are

Availability of funds for programs.

Post, p. 3171.

Liquidation of designated assets.

Availability of "heirless funds." Post, pp. 3172, 3173.

requesting the neutral countries to take all necessary action to facilitate the identification, collection, and distribution of these assets which have arisen out of a unique condition in international law and morality. If further representations are indicated the governments of the United States of America, France, and the United Kingdom will pursue the matter on behalf of the Signatory Powers.

Retention and
transfer of currency.

F. To insure that all funds made available shall inure to the greatest possible benefit of the victims whom it is desired to assist, all funds shall be retained in the currency from which they arise and shall be transferred therefrom only upon the instructions of the organization to which the Inter-Governmental Committee on Refugees or its successor organization has allocated the funds for expenditure.

Letter of Instru-
ction to Director.

G. The Director of the Inter-Governmental Committee on Refugees shall carry out his responsibilities to the Five Governments in respect of this Agreement in accordance with the terms of the Letter of Instruction which is being transmitted to him by the French Government on behalf of the Governments concluding this Agreement.

IN WITNESS WHEREOF the undersigned have signed the present Agreement.

Authentic texts.

Done in Paris on the 14th of June, 1946, in the English and French Languages, the two texts being equally authentic, in a single original, which shall be deposited in the Archives of the Government of the French Republic, certified copies thereof being furnished by that Government to the signatories of this present Agreement.

Delegate of the United States
of America,

ELI GINZBERG.

Delegate of Czechoslovakia,

J. V. KLVANA.

Delegate of France,

PHILIPPE PERIER

Delegate of Yugoslavia,

M. D. JAKSIC.

Delegate of the United Kingdom of
Great Britain & Northern Ireland,

DOUGLAS MACKILLOP.

POUR COPIE CERTIFIÉE CONFORME:

Le Ministre Plénipotentiaire
Chef du Service du Protocole.
JACQUES DUMAINE.

ANNEX TO THE AGREEMENT ON A PLAN FOR ALLOCATION OF A
REPARATION SHARE TO NON-REPATRIABLE VICTIMS OF GERMAN
ACTION

DECLARATION BY THE CZECHOSLOVAK AND YUGOSLAV DELEGATES

In accepting the phrasing of Paragraph E of the Agreement, the Czechoslovak and Yugoslav Delegates have declared that the Republic of Czechoslovakia and the Republic of Yugoslavia have not by so accepting, given up their claim to the forthcoming inheritances mentioned therein which, according to the provisions of international law, belong to their respective States.

PARIS, *14th June, 1946.*

The Czechoslovak Delegate:

J. V. KLVANA

The Yugoslav Delegate:

M. D. JAKSIC

of industry as a whole to a figure about 50 or 55 percent of the prewar level in 1938 (excluding building and building-materials industries).

Exports and Imports

The following agreement has been reached with respect to exports and imports:

(a) That the value of exports from Germany shall be planned as 3,000,000,000 reichsmarks (1936 value) for 1949, and that sufficient industrial capacity shall be retained to produce goods to this value and to cover the internal requirements in Germany in accordance with the Potsdam Declaration.

(b) That approved imports will not exceed 3,000,000,000 reichsmarks (1936 value), as compared with 4,200,000,000 reichsmarks in 1936.

(c) That of the total proceeds from exports it is estimated that not more than 1,500,000,000 reichsmarks can be utilized to pay for imports of food and fodder if this will be required, with the understanding that, after all imports approved by the Control Council are paid for, any portion of that sum not needed for food and fodder will be used to pay for costs of occupation, and services such as transport insurance, etc.

Determination of Capacities Available for Reparations

1. After the approval of this plan, the existing capacities of the separate branches of production shall be determined, and a list of enterprises available for reparations shall be compiled.

2. After decisions have been given on the matters now referred to the coordinating committee, the Economic Directorate would propose to prepare the final plan embodying these decisions and including a description of the various features of the plan, such as: disarmament, reparations, postwar German economy, and the German balance of trade.

XIX

ALLIED AGREEMENT ON CONTROL MACHINERY FOR AUSTRIA

June 28, 1946¹

Preamble

The Governments of the United Kingdom of Great Britain and Northern Ireland, the United States of America, the Union of Soviet Socialist Republics and the Government of the French Republic (hereinafter called the four powers):

In view of the declaration issued at Moscow on November 1, 1943, in the name of the Governments of the United Kingdom, the United States of America and the Union of Soviet Socialist Republics, whereby the three governments announced their agreement that Austria should be liberated from German domination, and declared that they wished to see reestablished a free and independent Austria, and in view of the subsequent declaration issued at Algiers on November 16, 1943, by the French Committee of National Liberation concerning the independence of Austria;

Considering it necessary, in view of the establishment, as a result of free elec-

¹The agreement was approved by the Allied Commission May 24, 1946 for reference to the four governments for final approval. It was officially signed by the four members of the Commission on June 28, 1946. Department of State, *Bulletin*, Vol. XV (1946), pp. 175-178.

Joe
3-26-46

tions held in Austria on November 25, 1945, of an Austrian Government recognized by the Four Powers, to redefine the nature and extent of the authority of the Austrian Government and of the functions of the Allied Organization and Forces in Austria and thereby to give effect to Article 14 of the agreement signed in the European Advisory Commission on July 4, 1945.

Have agreed as follows:

Article One

The authority of the Austrian Government shall extend fully throughout Austria, subject only to the following reservations:

(A) The Austrian Government and all subordinate Austrian authorities shall carry out such directions as they may receive from the Allied Commission.

(B) In regard to the matters specified in Article 5 below neither the Austrian Government nor any subordinate Austrian authority shall take action without the prior written consent of the Allied Commission.

Article Two

(A) The Allied Organization in Austria shall consist of: 1. An Allied Council, consisting of four high commissioners, one appointed by each of the Four Powers;

2. An Executive Committee, consisting of one high ranking representative of each of the high commissioners;

3. Staffs appointed respectively by the Four Powers, the whole organization being known as the Allied Commission for Austria.

(B) 1. The authority of the Allied Commission in matters affecting Austria as a whole shall be exercised by the Allied Council of the executive committee or the staffs appointed by the Four Powers when acting jointly.

2. The high commissioners shall within their respective zones ensure the execution of the decisions of the Allied Commission and supervise the execution of the directions of the central Austrian authorities.

3. The high commissioners shall also ensure within their respective zones that the actions of the Austrian Provincial authorities deriving from their autonomous functions do not conflict with the policy of the Allied Commission.

(C) The Allied Commission shall act only through the Austrian Government or other appropriate Austrian authorities except:

1. To maintain law and order if the Austrian authorities are unable to do so;

2. If the Austrian Government or other appropriate Austrian authorities do not carry out directions received from the Allied Commission;

3. Where, in the case of any of the subjects detailed in Article Five below, the Allied Commission acts directly.

(D) In the absence of action by the Allied Council, the four several high commissioners may act independently in their respective zones in any matter covered by subparagraphs 1 and 2 of subparagraph C of this article and by Article 5, and in any matter in respect of which power is conferred on them by the agreement to be made under Article 8 subparagraph A of this agreement.

(E) Forces of occupation furnished by the Four Powers will be stationed in the respective zones of occupation in Austria and Vienna as defined in the agreement on zones of occupation in Austria and the administration of the City of Vienna, signed in the European Advisory Commission on July 9, 1945.

Decisions of the Allied Council which requires implementation by the forces of occupation will be implemented by the latter in accordance with instructions from their respective high commissioners.

Article Three

The primary tasks of the Allied Commission for Austria shall be:

(A) To ensure the enforcement in Austria of the provisions of the Declaration on the Defeat of Germany signed at Berlin on June 5, 1945.

(B) To complete the separation of Austria from Germany, and to maintain the independent existence and integrity of the Austrian State, and pending the final definition of its frontiers to ensure respect for them as they were on December 31, 1937;

(C) To assist the Austrian Government to recreate a sound and democratic national life based on an efficient administration, stable economic and financial conditions and respect for law and order;

(D) To assist the freely elected government of Austria to assume as quickly as possible full control of the affairs of state in Austria.

(E) To ensure the institution of a progressive long-term educational program designed to eradicate all traces of Nazi ideology and to instill into Austrian youth democratic principles.

Article Four

(A) In order to facilitate the full exercises of the Austrian Government's authority equally in all zones and to promote the economic unity of Austria, the Allied Council will from the date of signature of this agreement ensure the removal of all remaining restrictions on the movement within Austria of persons, goods, or other traffic, except such as may be specifically prescribed by the Allied Council or required in frontier areas for the maintenance of effective control of international movements. The zonal boundaries will then have no other effect than as boundaries of the spheres of authority and responsibility of the respective high commissioners and the location of occupation troops.

(B) The Austrian Government may organize a customs and frontier administration, and the Allied Commission will take steps as soon as practicable to transfer to it customs and travel control functions concerning Austria which do not interfere with the military needs of the occupation forces.

Article Five

The following are the matters in regard to which the Allied Commission may act directly as provided in Article 2 (C) 3 above: 1. Demilitarization and disarmament (military, economic, industrial, technical and scientific).

2. The protection and security of the Allied Forces in Austria, and the fulfillment of their military needs in accordance with the agreement to be negotiated under Article 8 (A).

3. The protection, care and restitution of property belonging to the governments of any of the United Nations or their nationals.

4. The disposal of German property in accordance with the existing agreements between the Allies.

5. The early evacuation of, and exercise of judicial authority over prisoners of war and displaced persons.

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 Machinery for Austria
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6. The control of travel into and out of Austria until Austrian travel controls can be established.

7 (a). The tracing, arrest and handing over of any person wanted by one of the Four Powers or by the International Court for War Crimes and Crimes Against Humanity.

(b). The tracing, arrest and handing over of any person wanted by other United Nations for the crimes specified in the preceding paragraph and included in the lists of the United Nations Commission for War Crimes.

The Austrian Government will remain competent to try any other person accused of such crimes and coming within its jurisdiction subject to the Allied Council's right of control over prosecution and punishment for such crimes.

Article Six

(A) All legislative measures, as defined by the Allied Council, and international agreements which the Austrian Government wishes to make except agreements with one of the Four Powers, shall, before they take effect or are published in the State Gazette be submitted by the Austrian Government to the Allied Council. In the case of constitutional laws, the written approval of the Allied Council is required, before any such law may be published and put into effect. In the case of all other legislative measures and international agreements it may be assumed that the Allied Council has given its approval if within thirty-one days of the time of receipt by the Allied Commission it has not informed the Austrian Government that it objects to a legislative measure or an international agreement. Such legislative measure or international agreement may then be published and put into effect. The Austrian Government will inform the Allied Council of all international agreements entered into with one or more of the Four Powers.

(B) The Allied Council may at any time inform the Austrian Government or the appropriate Austrian authority of its disapproval of any of the legislative measures or administrative actions of the Government or of such authority, and may direct that the action in question shall be cancelled or amended.

Article Seven

The Austrian Government is free to establish diplomatic and consular relations with the Governments of the United Nations. The establishment of diplomatic and consular relations with other governments shall be subject to the prior approval of the Allied Council. Diplomatic missions in Vienna shall have the right to communicate directly with the Allied Council. Military missions accredited to the Allied Council shall be withdrawn as soon as their respective governments establish diplomatic relations with the Austrian Government, and in any case within two months of the signature of this agreement.

Article Eight

(A) A further agreement between the Four Powers shall be drawn up and communicated to the Austrian Government as soon as possible and within three months of this day's date defining the immunities of the members of the Allied Commission and of the forces in Austria of the Four Powers and the rights they shall enjoy to ensure their security and protection and the fulfillment of their military needs.

(B) Pending the conclusion of the further agreement required by Article 8(A)

the existing rights and immunities of members of the Allied Commission and of the forces in Austria of the Four Powers, deriving either from the Declaration on the Defeat of Germany or from the powers of a Commander-in-Chief in the field, shall remain unimpaired.

Article Nine

(A) Members of the Allied Council, the Executive Committee and other staffs appointed by each of the Four Powers as part of the Allied Commission may either be civilian or military.

(B) Each of the Four Powers may appoint as its High Commissioner either the Commander-in-Chief of its forces in Austria or its diplomatic or political representative in Austria or such other official as it may care to nominate.

(C) Each High Commissioner may appoint a deputy to act for him in his absence.

(D) A High Commissioner may be assisted in the Allied Council by a political adviser and/or a military adviser who may be respectively the diplomatic or political representative of his government in Vienna or the Commander-in-Chief of the forces in Austria of his government.

(E) The Allied Council shall meet at least twice in each month or at the request of any member.

Article Ten

(A) Members of the Executive Committee, shall, when necessary, attend meetings of the Allied Council.

(B) The Executive Committee shall act on behalf of the Allied Council in matters delegated to it by the Council.

(C) The Executive Committee shall ensure that the decisions of the Allied Council and its own decisions are carried out.

(D) The Executive Committee shall coordinate the activities of the staffs of the Allied Commission.

Article Eleven

(A) The staffs of the Allied Commission in Vienna shall be organized in divisions matching one or more of the Austrian Ministries or departments with the addition of certain divisions not corresponding to any Austrian Ministry or department. The list of divisions is given in Annex 1 to this agreement; this organization may be changed at any time by the Allied Council.

(B) The divisions shall maintain contact with the appropriate departments of the Austrian Government and shall take such action and issue such directions as are within the policy approved by the Allied Council or the Executive Committee.

(C) The divisions shall report as necessary to the Executive Committee.

(D) At the head of each division there shall be four directors, one from each of the Four Powers, to be collectively known as the Directorate of that division. Directors of divisions or their representatives may attend meetings of the Allied Council or of the Executive Committee in which matters affecting the work of their divisions are being discussed. The four officials acting as the head of each division may appoint such temporary subcommittees as they deem desirable.

Article Twelve

The decisions of the Allied Council, Executive Committee, and other constituted bodies of the Allied Commission shall be unanimous.

The Chairmanship of the Allied Council, Executive Committee and directorates shall be held in rotation.

Article Thirteen

The existing Inter-Allied Command in Vienna, formerly known as the *Kommandatura*, shall continue to act as the instrument of the Allied Commission for affairs concerning Vienna as a whole until its functions in connection with civil administration can be handed over to the Vienna Municipality. These will be handed over progressively and as rapidly as possible. The form of supervision which will then be applied will be decided by the Allied Council. Meanwhile the Vienna Inter-Allied Command shall have the same relation to the municipal administration of Vienna as the Allied Commission has to the Austrian Government.

Article Fourteen

The present agreement shall come into operation as from this day's date and shall remain in force until it is revised or abrogated by agreement between the Four Powers. On the coming into effect of the present agreement the agreement signed in the European Advisory Commission on July 4, 1945, shall be abrogated. The Four Powers shall consult together not more than six months from this day's date with a view to its revision.

In witness whereof the present agreement has been signed on behalf of each of the Four Powers by its High Commissioner in Austria.

Done this 28th day of June 1946 at Vienna in quadruplicate in English, French, and in Russian, each text being equally authentic. A translation into German shall be agreed between the four High Commissioners and communicated by them as soon as possible to the Austrian Government.

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SHIPMENTS OF CIVILIAN SUPPLIES BY THE UNITED STATES ARMY¹

¹The tables on the following pages were obtained from the War Department. Table A shows cumulative U. S. shipments of civilian supplies to all areas through February 1946. Table B shows cumulative U. S. shipments of civilian supplies to European areas through 31 January 1946, broken down by commodities and by theaters of destination. And Table C shows U. S. civilian supply shipments to European areas, monthly, through 31 January 1946. Figures of shipments from the United States, of course, are not a completely reliable indication of overseas issues, since they do not reflect the occasional diversion of supplies upon arrival overseas, supplies shipped to theaters from other countries, or any indigenous supplies issued for relief purposes. Table D contains recent available figures on civilian supply issues in the European Theater from all sources and is cumulative through 30 September 1945.