

Greg

MEMO

To: Helen, Jonathan, Marc, Lucille, Konstantin, Bob, Sebastian  
From: Ellen  
Date: Oct. 21, 1999  
Subj: Draft on Nazi Victim Property Policy: A Few Points

(1) This draft tries to follow a middle ground between interpretation of data and straight factual reporting. Of course, I've erred on both ends and look to all of you to help find a more satisfactory middle ground.

(2) Although this is being called the "Restitution Policy" paper, since I previously understood and framed it as dealing with U.S. policy on Nazi victim property, I stay with that for now. I thought our scope was official U.S. policy on the property of Nazi victims. That is why I have put so much emphasis on the Appendix—having the actual texts of the key documents. If this interpretation has been or will be changed, I would appreciate having a discussion about it as long as I have a role in drafting this paper. (I'm also quite happy to hand off to someone else.)

(3) Please advise as to any other key texts that you think should be included in the Appendix (see list on last pages of what I presently have). Also, if you can provide any of the missing items (last pages), that would be very helpful.

(4) There are key substantive gaps, some of which are explicitly noted, and some of which aren't. In preparing this draft, I relied exclusively on (a) my own review of the Appendix; (b) a quick look into secondary sources on U.S. occupation policy; (c) my research on real property. What's missing are the inputs on art, gold, and FED policies (see last page for specifics—exactly what is needed from whom). The Treasury parts-- Trading with the Enemy Act, Declaration 51072, Federal Funds Control, Alien Property Custodian--are a giant, gaping hole (who has worked/is working on this? SOS.) Also, the historical context needs work. Finally, Lucille is reviewing the documents from a legal standpoint.

(5) Building on (4), the bottom line is that this is something to just get the larger process that needs to happen started; i.e., something to mobilize us and to throw darts at.

(6) The due date for this document is November 1. We need to move quickly. By Friday, please let me know when and how you expect to get back to me as to your inputs on this ([o\\_connor\\_ellen@hotmail.com](mailto:o_connor_ellen@hotmail.com)).

Thanks.

also need Austria stuff

Draft of Document: U.S. Government Policy on Nazi Victim Property  
E. O'Connor  
Oct. 21, 1999

### Summary

U.S. Government policy on Nazi victim property was developed in relation to property policy in general and ultimately occupation policy as a whole. This report puts Nazi victim property policy in relation to these more encompassing categories and the historical context in which they were developed.

A review of the key documents (see Appendix) suggests that the official U.S. stance on Nazi victim property was not a strong one; and as it became stronger (in its most complete form, Law 59, "Restitution of Identifiable Property"), the moral resolve to push it and the machinery to implement it were at a weak point in the occupation. Almost complete transfer of responsibility to the Germans for restitution, as all other matters, had been effected; and the U.S. was primarily concerned with closing out its occupation of Germany.

In sum, the establishment of clear, firm policy on the Nazi victim policy was subordinated to concerns deemed more important by policymakers throughout three main periods: (1) During the pre-surrender period, the winning of the war; (2) During the early period of the occupation (1944-mid-1946), the matter of reparations to the Allies from Germany and the transfer of authority and responsibility to the Germans to facilitate the end of the occupation; and (3) During the latter period (mid-1946 to mid-1949), the establishment of central agencies to minimize costs to the U.S. Zone; the preoccupation with the Cold War; and the virtually complete transfer of responsibility to the Germans. In short, the priorities were, first, compensation to the U.S. and to the other Allies for their wartime costs; and second, the construction of necessary mechanisms (central agencies and administration) so that Germany could govern itself and the occupation could come to a close.

The most significant move in policy, and the most clear, firm policy concerning Nazi victim property was Law 59, effective in November of 1947. The U.S. had pursued agreements at a quadripartite, then a tripartite, and a bipartite level, all without success. Finally, it proceeded unilaterally. But Law 59 was ordered by the MG to be drafted by, and then ordered to be implemented by, the German civilian administration and judiciary, despite their dissension not only among themselves but also with the U.S. MG. In essence, the Law was forced on the Germans. The interpretation and particularly the implementation of Law 59 were thus fraught with difficulties, beginning with its very inception. Some of the difficulties were unintentional (e.g., translation problems); others had the effect of subverting the Law (see below).

Eventually, restitution was completely decoupled from the notion of returning property to individual owners through the mechanisms of the IRO/PCIRO, the IGCR, and the JRSO. Owners were presumed to have died in the Holocaust, so "restitution" was made to communities of refugees and survivors. However, the key moves in this process (decisions as to how much to distribute, to whom [e.g., Jewish v. non-Jewish], how, when and why) have not been investigated in this draft and should be in future drafts. Finally,

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restitution issues beyond the U.S. Military Government (JRSO, etc.)—perhaps through the very recent past—should also be added to future drafts.

### Data and Analysis

In this section, the above conclusions are supported with examples from the actual policy documents (see Appendix). Key texts are cited, relevant quotations are provided, and key points are highlighted. Our review is based on both what was said as well as what was unsaid in the official U.S. policy statements on property. This is particularly important in documents that address matters such as restitution to the Allies and to the United Nations but not to other (e.g., individual) victims of Nazi Germany.

#### Combined Directive for Military Government in Germany prior to Defeat or Surrender, April 28, 1944

This directive was approved by the Combined Chiefs of Staff (CCS, the chiefs of staff of the U.S. and Britain) and sent to the Supreme Commander, Allied Expeditionary Force. It gave the Supreme Commander (Eisenhower) “supreme legislative, executive, and judicial authority and power in the areas occupied by forces under your command” (3, a). Concerning property, it gave directives as to United Nations, U.S., and U.K. properties only. Properties (“gold, foreign currencies, foreign securities, accounts in financial institutions, credits, valuable papers and all similar assets”) in five categories were to be blocked. The “duress” category, which emerged later as the official term for individual Nazi victim property, is not addressed in this document. (A later version of this document dated November 9, 1944 identified seven objectives of the Military Government of Germany during the occupation. Concerning property, the only category specified for protection was “United Nations property,” “certain properties,” and “German foreign exchange assets.” Again there was no reference to individual Nazi victim property.)

#### Report of the Crimea Conference, February 11, 1945 → YA/TA

The list of goals for the occupation and control of Germany emphasized the destruction of German militarism and Nazism and the end of Germany’s ability to wage war. In terms of compensation for damages done, the key point was reparation by Germany to the Allied countries. Individual Nazi victim property and its restitution were not addressed.

#### Handbook for Military Government, December 20, 1944

Handbooks (guides for Military Government) had been previously issued (e.g., the Allied Military Government of Sicily and Italy). This genre of document was to contain the key information that military officers needed to know in the field. The Handbook for Military Government in Germany had been drafted by a SHAEF unit called the German Country Unit, which had been charged with civil affairs responsibilities in Germany. However, it was substantially revised by the President and the Secretaries of State, Treasury, and War (see below).

The duress property category was acknowledged in this Handbook. Military Government Officers (MGOs) were directed to "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." The document added that "[o]f 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" (Section 387). Although the directive dealt with the passing on of information, it did not prescribe specific action with regard to this information.

A key early policy relating to duress property was Law 52—a crucial Law, the status of which must be clarified. First is the date of its implementation (the earliest version we have found to date, April 19, 1945, states that it is a revision). Law 52 stated that all property in the occupied territory "owned or controlled, directly or indirectly, in whole or in part" by a number of persons and organizations was "hereby declared to be subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government." One such category of property was "Property which has been the subject of duress, wrongful acts of confiscation, dispossession or spoliation from territories outside Germany, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise."—Second is the matter of the practical effect of Law 52. Documents in the Property Control files indicate that high-level Property Control officials interpreted Law 52 as meaning that they were only authorized, not directed, to seize properties (e.g., NARA RG 260, Records of the Branch Chief, Property Division, Box 23, "Reports: Property Control Meetings" file, Minutes of the LPCCs with Heads of German Restitution Agencies, p. 12). Other documents indicate that Law 52 suffered extensive violations and was virtually unenforced (NARA RG 260, Office of the Finance Division, Box 161, "Enforcement Program 1946" file).

#### The Crimea Conference (aka Yalta), February 11, 1945

Basic agreements among the U.S., Great Britain, and the Soviet Union set the foundation for the Allied Control Council and the three zones of occupation (France was also invited). The purposes of destroying German militarism and Nazism and destroying Germany's capacity to wage war were stated. Concerning remedies for damages done, the focus was on "damage caused by Germany to the Allied nations."

#### Allied Control Council decisions on Restitution, 1945-1946

From early March, 1945 through mid-1946, the Allies focused on how they could compensate themselves for their costs incurred during the War. They sought to put the neutral countries on notice that the Allies would lay claim to enemy property outside of Germany and ultimately get their share of these assets (e.g., Resolution VI, Bretton Woods, July 1944; ACC Law No. 5, "Vesting and Marshalling Decree," October, 1945; Potsdam agreements, August, 1945). This agenda was foreshadowed by the London

Declaration, which constituted a warning to the neutrals who were trafficking in German gold ("Report on Treasury Department Involvement in Safehaven and Related Matters," Prepared by History Associates Incorporated for the U.S. Department of the Treasury, February 11, 1997, p. 6). In these and other important decisions and directives, the ACC focused on the restitution of identifiable property taken from invaded countries by force. Also noteworthy in these decisions was the connection of restitution to reparation (i.e., restitution decisions weighed in the larger context of reparations decisions). The largest single category of restitution was industrial equipment; NARA RG 260, Records of the Reparations and Restitutions Branch, Box 13, "A Short History of External Restitution—Non-Cultural," March 24, 1949, pp. 6-7). In this way, restitution was considered as a part of the more important agenda, that of reparations.

These decisions did not attend to "victims" in the sense of individuals who had personal properties confiscated by the Germans. The policies were geared to making amends to the Allied Nations for their wartime (industrial, defense) costs. This interpretation of "restitution" repeated at the U.S. level as well (e.g., "Memorandum Regarding American Policy for the Treatment of Germany," March 23, 1945). In this series of decisions, the term "restitution" was associated with the compensation to the Allies for their wartime costs. In this formulation, The Allies were the victims, and their governments were the entities needing compensation.

Directive to Commander-in-Chief of United States Forces of Occupation regarding Military Government of Germany, April 28, 1945 → JCS 1067

This Directive is the first official statement of a restitution policy for the loss of individual personal property under the Nazi regime. The Commanding General of the U.S. Forces of Occupation in Germany was directed to "impound or block all gold, silver, currencies, securities, accounts in financial institutions, credits, valuable papers and all other assets" falling within several categories, one of them being "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" (48, e, 2).

Furthermore, in the case of this property, the Commander was instructed to "institute measures for prompt restitution... subject to appropriate safeguards to prevent the cloaking of Nazi and militaristic influence." The qualifier to this statement was that such restitution had to conform to the basic objectives of the MG in Germany: (1) that the Germans had to take responsibility for "what they [had] brought upon themselves"; (2) that the occupying forces needed to be "just but firm and aloof"; (3) that Germany should be prevented "from ever again becoming a threat to the peace of the world"; (4) that the Allied objectives of reparations and restitution should be supported; and (5) that POWs and DPs of the U.N. were to be "cared for and repatriated." Other objectives related to controls on the German economy and specified that the paramount concern in this regard was the needs of the occupying forces and to the transfer of responsibility for such controls to the Germans.

Thus in the same context of making the strongest official policy statements to date about the property of individual Nazi victims, this passage also subordinated those actions to the broader aims of Occupation policy, including the transfer of authority and responsibility back to the Germans. This decision, although consistent with a tradition of military history prescribing the limited nature of MG, had serious implications for Nazi victim property policy in at least two categories, art and real property (see below).

There are more reasons to discuss the status of the policy, i.e., the status of the document itself. Secondary sources describe JCS 1067 as having been controversial, contested, and "half hearted" (Ziemke, 1975: 208) at the highest levels of U.S. policymaking (Ziemke, 1975: 106; Zink, 1957: 88; see especially changes in FDR's position in March of 1945—Ziemke, 1975: 86-106 and 210-212). Its drafting involved a President who shortly thereafter regretted its acceptance (Ziemke, 1975: 106) who died at a key point in its presumed implementation, to be succeeded by a President who entirely disagreed with it (Ziemke, 1975: 342) and who created the conditions such that one of the key contributors to the document, Secretary of the Treasury Morgenthau (Dorn, 1957; Ziemke, 1975: 104) resigned (see Ziemke, 1975: 80-96, 208-224, 342-365). It has been described as subordinated to at least two other documents: Potsdam and the Stuttgart address (the two are closely related; in the latter, Byrnes declared that the time to fulfill Potsdam had arrived). Clay states that he interpreted JCS 1067 in light of Potsdam, which he called "the most important document bearing on the German problem from 1945-1949" (Clay, 1950: 39). Zink (1947: 202) states that the U.S. had no long-range policy in Germany until Byrnes's address; Gimbel argues that this address marked the first occasion of synchrony between official policy and its administration (Gimbel, 1968: 1). Other historians do not consider JCS 1067 to be a true policy document (Fainsod, 1948; Zink, 1947: 201) or, if they consider it to have this status, they accord it little to no practical effect (Gimbel, 1968: 1) noting that it was protested from the outset (Gimbel, 1968: 17). Yet Zink states that the document "legally controlled American activities in Germany" until JCS 1779 was issued in July, 1947 (Zink, 1957: 91).

Ziemke (1975: 80-96, 208-224, 342-365) focuses on the difficulties in the drafting, issuance and acceptance of JCS 1067 at the highest levels of U.S. policymaking. He argues that U.S. occupation policy in Germany went "full circle" from the military tradition established in the handbooks, field manuals, and training programs (a tradition which emphasized restoring satisfactory living conditions to "normal" and reviving economic life), to JCS 1067, then to the Byrnes address and JCS 1779 (the latter being the occupation policies which Clay actually put into place based on Potsdam). For Clay, Potsdam's use was its emphasis on treating 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). Gimbel argues that Clay used Potsdam as a basis for going ahead with his own plans to establish unity within Germany. When he could not do so at the Allied level due to objections from France and to increasingly difficult interactions with the Soviets, he established the Laenderrat, the new German civil administration, and

ultimately the Bizonal agreement with Great Britain. In addition, for Clay, Potsdam was made more relevant due to concerns relating to the cost of the U.S. occupation of Germany and the fact that the U.S. Zone was relatively poor and relied on imports (Gimbel, 1968: 20, 46, 98).

According to Ziemke, the tradition of preparing military manuals remained with the military and the involvement of Morgenthau and FDR in the preparation of JCS 1067 was "an unscheduled detour through the White House" (Ziemke, 1975: 83; on p. 86, he states that Morgenthau only "chanced" to read the Handbook which eventually became JCS 1067). American military officers "had a remarkably homogeneous outlook" on the fundamental philosophy and policy of military occupation (85), a tradition in place through a series of handbooks, field manuals, and training courses.

Finally, the short-term nature of the Directive is stated in the second paragraph of the text ("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.")

USFET Directive to Commanding Generals, July 7, 1945, "Blocking and Control of Property"

This Directive instructed Commanding Generals to "continue to enforce measures previously taken to prevent [subject to license] any transaction or other dealing" in 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" (1, b) as well as "works of art or cultural material of value or importance" regardless of ownership (1, c). Noteworthy is the emphasis on continuing to prevent transactions in duress property but the lack of attention to restoring it.

Report on the Tripartite Conference at Potsdam, August 2, 1945

The Potsdam agreement established Allied control over Germany and carried out previous agreements at Yalta. The emphasis was again on eradication of German militarism and Nazism and the eventual reconstruction of Germany, including local self-government. Certain "essential" central agencies were to be established. Concerning reparations, the Yalta agreements were referenced along with the need for Germany "be compelled to compensate to the greatest possible extent for the loss and suffering that she has caused to the United Nations." Other victims were not mentioned. A ten-point section, entitled "Reparations from Germany," focused on claims from the U.S., the U.K., and "other countries entitled to reparations."

In a retrospective document entitled "A Year of Potsdam" (Pollock and Meisel, 1947: 93-94), the OMGUS Economics Advisor, William Draper, stressed the need for greater economic unity within Germany particularly due to the occupation costs incurred by the U.S. (the U.S. Zone depended on coal and steel from the British Zone, on food and

seeds from the Soviet Zone, and on fertilizer and tin plate from the French Zone). It was estimated that the U.S. was spending over a half a million dollars a day to "prevent starvation, disease and unrest in the U.S. Zone." Draper called for greater unity as called for by Potsdam. The U.S. and Britain established an agreement between their two zones, quadripartite and tripartite agreements having proved impossible to reach.

Allied Control Council Proclamation No. 2: Certain Additional Requirements Imposed on Germany, October, 1945

This Proclamation addressed the Allies' control of the German military, foreign affairs, communications systems, finance, agriculture, production and mining, public utilities, industry, "and economy generally." Allied Representatives were to take control of gold, silver, platinum, foreign notes and coins, and all property of any individual or company of a country that had been at war with the United Nations. Concerning Nazi victim property, the statements were as follows: First, "[t]he 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" (VI, 19, [a]); and second, "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" (XI, 42, [b]). Although the Proclamation instructed Germany to comply with future directives concerning the latter category of those discriminated against on the grounds of creed, etc.), no such directives were forthcoming.

Final Act and Annex of the Paris Conference on Reparation, January 14, 1946

This Act stated official policy of those Nazi victims who survived the Holocaust. Article 8 acknowledged the suffering of Nazi victims and their inability to claim assistance from any government receiving reparations from Germany. The governments of the U.S., France, the U.K., Czechoslovakia and Yugoslavia were to confer with the Inter-Governmental Committee on Refugees (IGCR) and were to work out a common agreement involving "a share of reparation consisting of all the non-monetary gold found by the Allied Armed Forces in Germany" plus a sum not to exceed \$25 million. These funds were to be allocated for the "rehabilitation and resettlement of non-repatriable victims of German action" (Article 8, A).

The first Annex concerned restitution of property taken by Germans, under duress, "from the Allied countries." Subpart (g) stated that German holders of looted property "shall be compelled to declare it to the control authorities."

Heirless assets were also addressed at the Paris Conference. For the same purpose (rehabilitation and resettlement of non-repatriable victims of German action), the governments of neutral countries were requested to make available the assets of heirless victims of Nazi Germany.

Agreement on a Plan for Allocation of a Reparation Share to Non-Repatriable Victims of German Action, June 14, 1946.

This Agreement implemented the Paris Reparations agreement. It specified that the assets becoming available under Article 8 (of Paris) "should be used not for the compensation of individual victims, but for the rehabilitation and resettlement of persons in eligible classes" (A). As "all available statistics indicate[d] beyond any reasonable doubt that the overwhelming majority of eligible persons" per Article 8 [were] Jewish," a small portion of funds (10% of the nonmonetary gold and 5% of "heirless funds") were set aside for non-Jewish victims. Children were given priority. Exceptional cases aside, costs of resettlement were not to exceed \$1,000 per adult and \$2,500 per child under 12. The IGCR was authorized to take title 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" (C). The French Government was charged with approaching the neutral countries to "make available all assets of victims of Nazi action who died without heirs." These "heirless funds" were to be made available to "appropriate field organizations" in order to rehabilitate and resettle Jewish victims of Nazi Germany. On this last point, the Agreement acknowledged that these assets arose "out of a unique condition in international law and morality" (E).

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Law 59, "Restitution of Identifiable Property," November 10, 1947

After fruitless attempts to achieve a restitution agreement (for duress properties) at the quadripartite, tripartite, and bipartite levels, the U.S. finally pursued a unilateral policy for the U.S. Zone only. It instructed the Laenderrat (the German local government at the three areas within the U.S. Zone—Bavaria, Wuerttemberg-Baden, and Bremen) to draft such a law. However, the Laenderrat could not agree within itself as to the provisions of this Law. So the MG made some modifications to this draft and promulgated the Law (59).

In order to obtain information on properties transferred under duress, the Law provided for the submission of reports by present owners of duress properties or by persons or financial institutions having information concerning such properties. The intent of the law was to reach amicable settlements among the parties. (One secondary source states that this purpose related to the need for minimum disruption to the status quo and to the German economy; Kapralik, 1962.) Crucial issues concerned the scope of properties included in the Law (e.g., the German civil authorities charged with implementation of the Law were authorized to decide of the property values were sufficiently "significant" to be covered under the Law). The deadline for submission of claims was quite controversial (90% of claims were filed in the last month, December, 1948) and was vehemently protested. Administrative breakdowns included the misclassification of properties (e.g., duress properties classified as U.N. properties, thereby altogether escaping the special treatment accorded to the former category); the involvement of insufficiently denazified individuals in the property control and restitution process; and misunderstanding of the Law itself (see Real Property report).

## Conclusion

(Needs to be written—awaiting input on this part for now.)

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## List of Appendices Currently in Binder

- \* The Hague Convention of 1907
- \* Summary of Trading with the Enemy Act
- \* The London Declaration (Jan. 5, 1943)
- \* The Morgenthau Plan, 1943
- \* 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
- \* Report of the Crimea Conference, Feb. 11, 1945 (also, Crimea Conference Communique);
- \* Draft directive for treatment of Germany, March 10, 1945
- \* Memorandum regarding American Policy for Treatment of Germany, March 23, 1945
- \* Military Government Laws 52 and 53
- \* Directive to Commander-in-Chief of U.S. Forces of Occupation regarding Military Government of Germany, April 28, 1945 (JCS 1067/6)
- \* Declaration regarding Defeat of Germany and Assumption of Supreme Authority by Allied Powers, June 5, 1945
- \* American Directive on the Military Government of Austria, June 27, 1945
- \* USFET Directive to Commanding Generals (excerpt: "Blocking and Control of Property," July 7, 1945
- \* Proclamation No. 1, Military Government of Germany, Supreme Commander's Area of control, July 14, 1945
- \* Report on the Tripartite Conference of Potsdam, August 2, 1945; also, Tripartite Conference at Berlin, Dept. of State Bulletin 13, August 5, 1945;
- \* Control Council Proclamation No. 2: Certain Additional Requirements Imposed on Germany, Oct. 29, 1945
- \* Allied Control Council Law No. 1, Sept. 20, 1945; Law No. 2, Oct. 10, 1945; Allied Control Council Proclamation No. 3, Oct. 20, 1945; Law No. 4, Oct. 30, 1945
- \* Allied Control Council Law No. 5, "Vesting and Marshalling of German External Assets," Oct. 30, 1945
- \* Directive on Austria approved by the State-War-Navy Coordinating Committee, Nov. 29, 1945
- \* Statement on American Economic Policy toward Germany, Dec. 12, 1945
- \* Allied Control Council Definition of Restitution, Jan. 19, 1946
- \* Final Act and Annex of the Paris Conference on Reparation, Jan. 14, 1946
- \* JCS Directive on Restitution (to certain countries), Mar. 16, 1946
- \* Plan of the Allied Control Council for Reparations and the Level of Post-War German Economy, March 26, 1946

- \* "First Comprehensive Review of the German Problem," correspondence of clay, May 26, 1946
- \* Agreement on a Plan for Allocation of a Reparation Share to Non-Repatriable Victims of German Action, June 14, 1946 ( " Five-Power agreement... " )
- \* Allied Agreement on Control Machinery for Austria, June 28, 1946
- \* Democratization of Germany: A Statement of Policy by General J. McNarney, July 9, 1946
- \* Stuttgart Address by Secretary of State Byrnes, Sept. 6, 1946
- \* Proclamation No. 5, Military government of Germany, U.S. Area of Control, June 2, 1947
- \* Directive to Commander-in-Chief of U.S. Forces of Occupation Regarding the Military Government of Germany, July 11, 1947 (JCS 1779)
- \* Military Government Law 59 (including Regulations 1-6 and Amendments)

**TO DO:**

1. Out of Chron Order

Title 17, "Property Control" (need date)

2. Copies Just Received (I will make copies and put in Appendix)

Resolution VI, Bretton Woods, July, 1944

ACC Quadripartite Procedures for Restitution (need date)

Title 19 (need date)

3. Items I Still Need Copies Of

ACC Definition of Restitution (isn't there a revision of March, 1946?)

FED Policy (Sebastian) (Cables)

Treasury Materials (Trading with the Enemy Act, Declaration 51072, etc.—serious problem; see cover memo)

SWNCC Directives (various, need more info altogether on this--Marc?)

~~ACC Definition of Restitution (revision of March, 1946)~~

Tripartite Gold Commission, September 27, 1946 (Bob to provide)

Non-Monetary Gold Directive, Nov. 16, 1946 (Bob to provide)

OK ~~Declaration of Gold Purchases, Feb. 22, 1944~~

London Patent Agreement (date; Lucille to provide)



NARA APPROVED  
10/22/99

## **Bunch, Roger L SFC CMH**

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**From:** Goldberg, James S MAJ CMH SPO  
**Sent:** Wednesday, October 20, 1999 11:26 AM  
**To:** Eddens, Cheryl D Ms CMH; Butler, Kenneth L SFC CMH; Bunch, Roger L SFC CMH; Bowens, Vickie SFC CMH  
**Cc:** 'Holocaust Assets Commission, Margretta Kennedy, Director of Administration'; 'Holocaust Assets Commission, Katherine Page, Ass't to Exec Dir.'  
**Subject:** New Commission members arriving  
**Importance:** High  
**Follow Up Flag:** TASKING.  
**Flag Status:** Flagged

**Cheryl, SFC B, B, and B,**

I will be out of the office on Monday. In my absence,

**Cheryl,**

Two new members of the Holocaust Commission will arrive on Monday. **Sebastian Saviano and Greg Murphy.** Badges, information on how to gain access to the building, when not to gain access, etc. Your standard security briefing. Once that is completed, hand them off to the other Commission members in room 115, then get SFCs Butler and Bunch. If no other members are around, escort them to 115, tell them to set up house, and then get SFC B and B. Don't forget to ask them where they parked, and suggest that they move their cars if they are in the front lot by the postoffice, which is off limits.

**SFC Butler and Bunch,**

Both of these individuals have NT accounts and email addresses here. Get them first - time logged on. Let them know that their email addresses are:

**Sebastian.Saviano@hqda.army.mil**  
**Greg.Murphy@hqda.army.mil**

Send me a SITREP when done.

**SFC Bowens,**

Now that we will have 5 members here, pay a visit to them, and have each one of them sign for the equipment they are using. The FAX and two network printers are shared. Ask one of them to sign for them.

Send me a SITREP when done.

If you have any questions or concerns on Monday, contact me on my cell phone at

P6/(b)(6)

- Goldberg

P6/(b)(6)

Sebastian Saviano  
October 13, 1999

## CURRENCIES

Among all of the assets held by the U.S. military in the Foreign Exchange Depository (FED) in Frankfurt, currencies constituted a substantial amount comprising denominations from over 100 countries. They originated in various shipments to the FED and their source included Reichsbank reserves, SS loot from occupied countries, concentration and prisoner of war camps, and confiscation under Military Government Law 53. And as in the case for other assets such as gold and securities, FED Army officials retained authority over the currencies safekeeping, accounting, and disposition.

United States policy guided the restitution of foreign currencies (as opposed to the Reichsmark, the domestic currency) based principally on their provenance—whether they belonged to the Reichsbank and other German government institutions or organizations or whether they constituted loot from victims of political and racial persecution.

Currencies were treated as loot from victims only where physical evidence of loot appeared when they were found. Based on this broad categorization, currencies were restituted respectively to the national governments of the countries of issuance or to the Inter-Governmental Committee on Refugees (IGCR), and later to its successor, the International Refugees Organization (IRO) and its earlier functional version, the Preparatory Committee of the International Refugee Organization (PCIRO).

Accounting for the currencies, as for all other assets held at the FED, constituted an enormous task for the U.S. military, particularly given the accelerated personnel

redeployment program which FED military officials had to face.<sup>1</sup> Nonetheless, the accounting task was readily and meticulously implemented by Army personnel thanks especially to the fact that no specific technical expertise was needed in the process of evaluation. A detailed accounting was maintained of all coins and currency bills which in most cases included the serial number of each bill.<sup>2</sup>

### *Restitution to national governments*

Restitution of foreign currencies to national governments applied under the following two main guidelines:<sup>3</sup>

- (1) Currencies issued by countries which experienced Axis occupation were restituted to the respective national governments.<sup>4</sup> Furthermore, currency was delivered to the country of issue without necessity of proof that it had been looted or otherwise acquired from that country during German invasion or occupation.<sup>5</sup>
- (2) Currencies issued by United Nations (UN) and Inter-Allied Reparations Agency (IARA) countries,<sup>6</sup> and which never experienced Axis occupation, were restituted to those governments through the IARA and accepted as a charge against reparations.

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<sup>1</sup> NARA, Record Group 260, Military Government Executive Office, Box 111, File Restitution Policy, Cable S-25884, September 30, 1945.

<sup>2</sup> NARA, Record Group 260, ??, Boxes ??? Inventory Cards.

<sup>3</sup> NARA, Record Group 260, Property Division, Box 16, File (?), Cable W-90078, 21 January 1947.

<sup>4</sup> These countries included Albania, Belgium, Czechoslovakia, Denmark, France, Greece, Italy, Luxembourg, the Netherlands, Norway, Poland, USSR, and Yugoslavia. Currencies of Bulgaria, Finland, Hungary, and Romania were restituted to the USSR.

<sup>5</sup> NARA, Record Group 260, Finance Division, Box 420, File 940.15, OMGUS Correspondence, 31 October 1945.

<sup>6</sup> These included Australia, Canada, Egypt, India, New Zealand, Union of South Africa, United Kingdom, and United States.

Table I below shows a listing of a shipment of currencies restituted to national governments. An *approximate* valuation of these currencies in 1948 U.S. dollars<sup>7</sup> suggests a total value of more than \$46 million. A FED estimated total evaluation of these currencies, however, placed the total at approximately \$10 million.<sup>8</sup> The discrepancy in the estimates is due to the fact that some currencies were nominally evaluated by FED officials at \$1.00 for their total.<sup>9</sup> All of these currencies originated in 10 shipments to the FED.<sup>10</sup> They were mostly part of the reserves of the Reichsbank and, in a few cases, belonged to the SS and Gestapo. In no case evidence appeared that they had been removed from political or racial victims.

Two important policy issues arise from the restitution of currencies being treated as external assets and they concern the (1) restitution to countries of issue regardless of potential third party claims, and (2) individual ownership rights. While it was relatively easy for the U.S. army to establish the provenance of the currencies delivered to the FED, it was impossible to establish their exact origin. Most of the foreign currencies represented Reichsbank reserves as shown by official papers often found along with the currencies. However, establishing whether these foreign reserves had been legally or illegally acquired proved to be impossible. What ended up in the official reserves, in fact, surely included currencies looted from countries under

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<sup>7</sup> The exchange rates adopted for this calculation were derived from a memorandum of the Office of Military Government for Germany (US) dealing with the evaluation of German assets in IARA countries (NARA, RG 260, Box 11, Property Division, File #16 IARA, Memorandum, 11 March 1949).

<sup>8</sup> NARA, Record Group 260, Finance Division, Box 423, "Return of Currency to Country of Issue," (no date).

<sup>9</sup> A total valuation of \$1.00 was given to: USSR rubles, still accounted at this stage; English pounds, believed to be counterfeit; almost three billion in French francs, considered "non legal tender;" and Greek drachmas and Yugoslav dinars for reason not specified. NARA, Record Group 260, Finance Division, Box 423, "Return of Currency to Country of Issue," (no date).

<sup>10</sup> Shipments nos. 1, 2, 5, 6, 17, 18, 21, 23, 27A, 27D, 27E, 52A, 52C (Citation to be completed).

occupation and from victims of political and racial persecution, as well as those simply acquired on international financial markets. Furthermore, it would have been practically impossible to establish whether certain currencies had been looted from the country of issue or from occupied third countries' official reserves. In fact, at the policy level the question arose of how to treat any lots of currencies identifiable as removed from a country other than that of issue. No such currencies were identified,<sup>11</sup> while it is also apparent that no such claims were put forward. A policy in this respect, therefore, was never developed. The only standing exception to this conclusion is the "Silver train" and its restitution to Hungary (. . . to be developed).

Given these inherent difficulties in pursuing claims at almost any level, the restitution guidelines outlined above were agreed at the multilateral level<sup>12</sup> providing for only those currencies which showed evidence that they had been looted from political or racial victims were to be treated as a special case—hence the policy of restitution to the IGCR/IRO discussed below.

Finally, concerning the issue of individual property rights, potential claims of ownership were deferred to individual governments. The policy adopted provided for the restitution of currencies to national governments to be without prejudice to individual ownership rights which could have been established before the governments receiving the currencies.<sup>13</sup>

The U.S. government, and specifically the Office of Alien Property (OAP) of the U.S. Department of Justice, received approximately \$3.5 million in early 1949 (as

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<sup>11</sup> NARA, Record Group 260, Finance Division, Box 160, File 2/160-8, "Foreign Currencies: Summary of Cables."

<sup>12</sup> NARA... citation to be completed.

indicated in Table I) to be vested as German external asset.<sup>14</sup> Subsequent policy questions were raised at the interagency level as to the status of the currency received. It was unclear to the agencies handling the currency in the United States, that is the Department of the Army and the OAP, whether the dollar currency found in Germany should have been considered as property of unknown ownership or as property of the Reichsbank. In fact, the OAP would have treated such property differently depending on its definition.<sup>15</sup> Future research into the Department of the Treasury records should reveal how the currency received by the U.S. government was eventually treated.

#### *Restitution to the IGCR/IRO*

The policy of restitution of currencies to the IGCR/IRO required that these represented loot from victims of German persecution.<sup>16</sup> Among the currencies delivered to the IGCR/IRO, the 1947 shipment detailed in Table I below includes those originated in two shipments to the FED.<sup>17</sup> A substantial amount of these originated from the Melmer loot Reichsbank deposits uncovered in Merkers Mine, with the rest from boxes of valuables found by U.S. forces near Buchenwald. Evidence uncovered with the valuables found in Merkers and Buchenwald suggested loot from concentration camp victims.

The Melmer Reichsbank deposits represented a difficult challenge to U.S. restitution policy in dealing with looted currencies. In Merkers, a total of 78 Reichsbank deposits were uncovered including “43 processed” and “35 unprocessed deposits.” These

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<sup>13</sup> NARA, Record Group 260, Property Division, Box 16, File (?), Cable W-90078, 21 January, 1947.

<sup>14</sup> NARA, Record Group 260, Finance Division, Box 167, File (?), Shipping Ticket No. 195, 10 January, 1949.

<sup>15</sup> NARA, Record Group 260, Finance Division, Box 420, Cable W-85373T, 15 March, 1949.

<sup>16</sup> NARA, Record Group 260, Finance Division, Box 421, File 940.14, Cable WX-85682, (date?).

were deposits made by SS man Bruno Melmer<sup>18</sup> and hidden by Reichsbank officials in the Merkers Mine with the Allies advance in Germany. The 35 unprocessed deposits, which included the actual currencies still in unopened boxes, were treated as loot and included in the delivery to the IGCR detailed in Table I below. Concerning the 43 processed deposits, their accounting records were found but not the currencies—they had been assimilated in the general assets of the Reichsbank. These processed deposits amounted to over \$1.2 million (in 1948 dollars). Any physical evidence of loot from political and racial victims may have disappeared.

According to restitution policy, the possibility that these currencies may have constituted loot represented a potential claim by the IGCR. The fact that they were Melmer deposits to the Reichsbank were strong enough evidence that they may have been looted currencies. FED officials, however, chose not to invite the IGCR to submit a claim and argued against disclaiming any information concerning the currencies potential origin as loot from political and racial victims. They argued that such a claim may have constituted a priority claim and may have invited for criticism from governments to which these currencies were to be returned under current disposition directives. Their argument was further supported by the fact that some of the foreign currencies were no longer physically present among Reichsbank reserves and that a potential restitution to the IGCR/IRO may have required the use of currencies to be delivered to national governments.<sup>19</sup>

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<sup>17</sup> Shipments nos. 1, 16; NARA, Record Group 260, Finance Division, Box 160, File 2/160.9, Cable CC-9926, 18 July 1947.

<sup>18</sup> NARA, Record Group 260, Central Files of the Foreign Exchange Depository, Box 423, File 943.04.

<sup>19</sup> NARA, Record Group 260, Finance Division, Box 421, File 940.14, Cable CC-9926, 18 July, 1947.

An *approximate* valuation, also in 1948 U.S. dollars, of the currencies restituted to the IGCR/IRO in 1947 suggests a total value of more than \$1 million. Some of the currencies delivered, however, may have been “worthless”—that is, they had been taken out of the circulation in the meantime—and it would have been up to the governments to honor them. There is indication that the IGCR/IRO was reluctant in dealing with the issue of “worthless” currencies. In fact, in a proposed subsequent delivery of looted currencies from the FED to the IRO, the latter opted to accept currency from only a limited number of countries deeming the rest of the currencies to be “worthless.”<sup>20</sup>

No complete documentation has been found concerning the comprehensive value of the currencies restituted to the IGCR/IRO or whether there were any other additional shipments. As late as 1950 the IRO submitted a claim to the U.S. High Commissioner for Germany (HICOG) for currencies of “unknown ownership” which totaled approximately \$477,000 (in 1950 U.S. dollars).<sup>21</sup> It is unknown whether this claim was accepted.

*(Please note that we are still researching the records of HICOG and that it is possible that we will find more on restitution to the IRO.)*

#### *MG Law 53 currencies*

The Control Council developed a policy vesting the title to foreign currencies confiscated under MG Law 53<sup>22</sup> in the German External Property Commission (GEPC)

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<sup>20</sup> NARA, Record Group 260, General Records of the Foreign Exchange Depository, Box 162, File (?), PCIRO Correspondence, 27 July 1948. No value exists concerning this proposed shipment. The PCIRO acceptable list of countries included Australia, Belgium, Denmark, Egypt, England, Ireland, Italy, the Netherlands, Newfoundland, Norway, Palestine, Spain, Sweden, Switzerland, Turkey, and the United States.

<sup>21</sup> NARA, Record Group 165, Entry 476, Box 838, Airgram, 27 May, 1950.

<sup>22</sup> Military Government Law 53, adopted in 1945 (?), provided for the confiscation of all foreign assets, including foreign currencies, held by residents (citizens?) of Germany.

for later restitution to the countries of issue. This policy, however, contrary to the policy concerning general pool currencies, took into account ownership rights. A clear distinction, in fact, existed between currencies seized by the U.S. military and deposited in the FED and those falling under MG Law 53—the former bore no identification concerning their ownership as opposed to the latter which were confiscated from individual owners.

The United States, United Kingdom, and France (with the USSR in disagreement) agreed to grant senior property rights to non-Law-5-German nationals (e.g. persecutes) prior to returning the currencies held under Law 53 to the countries of issue.<sup>23</sup> This policy was implemented despite opposition by the Office of Military Government for Germany (OMGUS) which argued against the release of such property to owners inside Germany.<sup>24</sup> Although OMGUS officials stated no explicit arguments in this respect, it is clear that their position was based on their concerns for domestic economic policies and the reduction of black market activity, which would have been aggravated by the presence of hard currency in the domestic economy.

In any case, the inventory of Law 53 currencies revealed only small quantities of foreign currencies. Table II below shows the denominations and amount of currencies delivered under MG Law 53. Also, the inventory did not disclose whether depositors or owners were non-Law-5-Germans, as well as foreign owned German corporations. And since it would have been administratively impractical to ascertain the ownership of these currencies and given that no application for their release had been filed by non-Germans

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<sup>23</sup> NARA, Record Group 260, Finance Division, Box 292, File (?), Cable, No date.

<sup>24</sup> NARA, Record Group 260, Finance Division, Box 160, File (?), Cable CC-1117, 4 August, 1947.

outside Germany by the end of 1947,<sup>25</sup> the policy giving priority to individual owners had little effect on the restitution process.

Furthermore, we are unaware of the administrative process and procedures used in the confiscation of these currencies. Since the process of confiscation started early on and the issue of ownership rights and any identification attempt mentioned above did not take place until later, it is possible that the administration of the confiscation process lacked the requirement and information necessary to later identify the owners. In the end, Law 53 currencies were restituted to national governments following the guidelines applied to the currencies held by the FED.<sup>26</sup>

Finally, at this stage of the research it is unclear how foreign currencies held by displaced persons were treated, or whether they were confiscated in the first place. If they were confiscated, in fact, according to the administrative implications discussed above concerning ownership rights, they could not have been returned to their owners because it would have been impossible to trace them back.

*German currency.* The FED was the collecting point for several million German marks, which originated mostly from Reichsbank holdings that came under the control of the U.S. military. Although most of this currency was used by the U.S. Military Government for macroeconomic policy goals and programs, it would be useful to estimate the size of its value. Unfortunately very little documentation has been found to this effect.

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<sup>25</sup> NARA, Record Group 260, Finance Division, Box 160, File (?), Cable CC-2071, 24 October, 1947.

<sup>26</sup> NARA, Record Group 260, Finance Division, Box 292, File (?), Memorandum, 19 July 1948.

At this stage of the research, some questions still remain unanswered: concerning currency confiscation and DPs; how much went to the IRO; (more questions).

**TABLE I**  
**RESTITUTION OF CURRENCIES:**  
**PARTIAL SHIPMENTS**

Currency	Country	Amount restituted to national government <sup>27</sup>	Amount delivered To the IGCR <sup>28</sup>
Franga	Albania	430,675.00	4,999.69
Pound	Australia	1.10	4.00
Franc	Belgium	*48,477,575.00	212,119.57
Lev	Bulgaria	62,342,220.50	44,494.04
Dollar	Canada	8,786.32	311.98
Korun	Czechoslovakia	*271,702.61	1,013,692.42
Kroner	Denmark	*1,373,233.10	49.46
Pound	Egypt	46,321.21	2.40
Markka (?)	Finland	40,642.55	237.31
Franc	France	*2,711,461,250.00	3,049,630.44
Franc (Algeria)		*3,521,325.00	--
Drachma	Greece	*5,753,347,369.55	284,279,124.12
Pengo	Hungary	34,528,872.25	1,018,374.51
Rupee	India	10.00	--
Lira	Italy	59,175,811.25	872,253.84
Franc	Luxembourg	*980.57	243.00
Guilder	Netherlands	*2,705,975.24	78,979.21
Kroner	Norway	*9,668,470.89	1,911.57
Zloty	Poland	*64,995,094.50	13,946,392.10
Marek		*31,113.50	14,690,503.41
Leu	Romania	554,244,591.49	121,991.79

<sup>27</sup> NARA, Record Group 260, Finance Division, Box 160, File 2/160.9, Cable CC-9926, 18 July 1947. \* Denotes amount derived from the actual shipping ticket accompanying the delivery of the currency; NARA, Record Group 260, Finance Division, Box 423, File 940.17, Shipping tickets.

<sup>28</sup> NARA, Record Group 260, General Records of the Foreign Exchange Depository, Box 160, File 2/160.9, Cable CC-9926, 18 July 1947.

Pound	United Kingdom	207,235-5-0	1,579.35
Ruble	USSR	374,815.80	46,341.39
Pound	Union of South Africa	*2,896.50	95.13
Dollar	United States	*3,561,205.88	97,045.80
Dinar	Yugoslavia	*6,230,784.25	264,019.28

**TABLE II**

**MILITARY GOVERNMENT LAW 53 CURRENCIES<sup>29</sup>**

Country	Currency	Amount
Belgium	Belgas	811,484.30
	Franc	26,782,628.50
Czechoslovakia	Korun	96,293,629.43
Denmark	Kroner	81,095.10
France	Franc	173,139,090.67
Greece	Drachma	1,664,782,359.20
Hungary	Pengo	713,451,000.00
Italy	Lira	18,674,633.13
Netherlands	Guilders	3,326,816.12
Norway	Kroner	164,522.31
Poland	Zloty	9,301,730.34
Romania	Leu	25,000,000.00
Russia	Ruble	561,483.45
Slovakia	Karbowanez	887,739.95
	Ks. (?)	6,007,031.79
Sweden	Kroner	14,606.60
Switzerland	Franc	224,581.50
United Kingdom	Pound	8,109.17
United States	Dollar	233,606.30
Yugoslavia	Dinar	11,109,435.00

<sup>29</sup> NARA, Record Group 260, Finance Division, Box 160, File 2/160-9, "Tabulation of Currencies Delivered Under Military Government Law 53," (no date).

## SECURITIES

Even prior to our entry into World War II, the United States was concerned about looted securities. On April 10, 1940, the Treasury Department adopted controls designed to prevent the disposal of such looted securities in the United States.<sup>30</sup> As a result, comparatively few American securities were looted by the Germans. The Nazis, according to stock exchange dealers, were not interested in them because U.S. securities “were registered and thus could not readily be transferred whether purchased or stolen.”<sup>31</sup>

In the May 31, 1944 final report of the U.S. Interdivisional Committee on Reparation, Restitution, and Property Rights, it was predicted that there would be problems involved in returning looted securities after the war because of “difficulties in determining” the actual fact of looting and “in establishing ownership.” As far “as securities can be identified as looted, whether or not individual owners can be identified, they should be subject to restitution. In general, the rule of return to the country from which they were looted should be followed. Subsequent determination as to final distribution could be made in the country receiving the securities.”<sup>32</sup>

The Allied armies would discover these securities in various bank branches, Reichsbanks, among SS and Gestapo loot hidden in salt mines, prisoner-of-war camps, buried in hills, and on a farm whose occupant stated he “believed they had belonged to Govt. of Netherlands or might be requisitioned Jewish property in Holland.”<sup>33</sup> Many of these securities were stolen from concentration camp victims.<sup>34</sup> The Army transferred these assets to a central American collection center in Frankfurt, the Foreign Exchange Depository where they would await disposition.

In fact, among the items found on the Hungarian National Bank train in Spital am Pyhrn, Austria in May 1945 was a case of “sealed envelopes regarding Jewish properties.” The Bank was instructed on May 15, 1945 to deliver these properties [among other assets] to the U.S. Military Government in Austria according to the provisions of Article 3, Decree 4 of the Military Government,<sup>35</sup> the predecessor to HQ USFA [Headquarters, United States Forces Austria]. It is unknown at this time what eventually became of these assets.

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<sup>30</sup> National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; May 25, 1946 Domke, Martin. Trading With the Enemy in World War II. 1943. New York: Central Book Company, p. 322

<sup>31</sup> National Archives; RG 131; Foreign Funds Control Subject Files; Box 388; File: Looted Securities; Telegram 1273; October 15, 1945

<sup>32</sup> National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; CORC/P[46]383, Allied Control Authority, Coordinating Committee, Foreign Currency and Foreign Securities found in Germany; November 26, 1946

<sup>33</sup> National Archives; RG 260; Finance Division; Box 50; File: Gold and Silver [Hungarian Restitution]; “Data Re S.S. Loot”

<sup>34</sup> National Archives; RG 260; Finance Division; Box 164; File: FED-1948; “Transmittal of Schedule Listing Securities Found in Loot Shipments Held at the Foreign Exchange Depository”; August 20, 1947

<sup>35</sup> National Archives; RG 260; Finance Division; Box 284; File: Hungary - National Banks; May 14, 1945

A measure of how many securities were looted by the Germans is provided by Reichsbank figures. The Reichsbank in Leipzig reported on December 30, 1944 as having RM 2,693,300 worth of securities. On April 20, 1945, they reported having RM 26,105,200 worth,<sup>36</sup> a ten-fold increase in less than four months! In addition, Melmer deliveries of securities and postal stamps totaled RM 175,681.97.<sup>37</sup>

But, despite the guidelines set by the London Declaration of 1943 and the Reparation, Restitution, and Property Rights report, the four major, victorious powers soon found themselves mired in disagreements on various aspects of the restitution program. The London Declaration, also known as the Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control, and signed by all the Allied powers issued “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 practiced by the Governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled.” The Allies also reserved “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... 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.”<sup>38</sup>

On February 21, 1946, the Allied Control Authority for Germany, consisting of the United States, Great Britain, France, and the Soviet Union, made it “compulsory that all foreign securities in Germany be deposited at such offices as the Occupation Authorities shall direct.”<sup>39</sup> In May 1946, the Allied Control Authority, reflecting a serious division within its ranks, required in the western zones of Germany only, all foreign securities “owned or controlled by German nationals in Germany are required to be deposited with the Reichsbank in terms of Law 53.”<sup>40</sup> The Soviet Union laid claim to all foreign assets found in Germany, interpreting the Potsdam Agreement and Allied Control Council Law 5 as meaning that these assets [including securities] fell “under the jurisdiction of the Allied Power in whose Zone of Occupation” they were located and “not under the jurisdiction of the German External Property Commission.”<sup>41</sup> In other words, according

<sup>36</sup> National Archives; RG 260; FED; Box 427; “Status of the Reichsbank.”

<sup>37</sup> National Archives; RG 260; FED; Box 427; File: Melmer Deliveries; “Recapitulation of Proceeds: Melmer Deliveries.”

<sup>38</sup> Department of State Bulletin 21 [1943]

<sup>39</sup> National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investment; “GEPC/Memo[46]11[Final], Allied Control Authority, German External Property Commission, Delivery of Foreign Securities in Germany;” February 21, 1946.

<sup>40</sup> National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investment; GEPC/P[46]28, Allied Control Authority, German External Property Commission, Foreign Securities deposited with the Reichsbank; May 17, 1946

<sup>41</sup> (19) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investment; Annex “B”, GEPC/P[46]48, Allied Control Authority, Legal Directorate, Delivery of Foreign Securities in Germany, May 28, 1946.

to the Soviet argument, foreign securities found in Germany could not be treated as German external assets, a view that the other three allies found perverse.<sup>42</sup> In June 1946, OMGUS floated restitution proposals regarding securities to the War Department's Adjutant General. OMGUS proposed that any securities procured in occupied countries by residents of Germany or Austria "during period of occupation... shall be regarded... as having been acquired under duress and shall in principle be subject to restitution" to governments of countries in which they were obtained. The restitution process would begin with formerly-occupied nations compiling inventories of looted securities which would group them by type; date; registration numbers; and circumstances of acquisition. The U.S. military authorities in Germany and Austria would also prepare inventories in order to decide any claims.<sup>43</sup>

The U.S. delegate was instructed to propose that the Coordinating Committee rule that "foreign securities in Germany are rights, titles or interests in respect of property outside Germany and are therefore vested in the German External Property Commission in accordance with the provisions of Control Council Law No. 5."<sup>44</sup> On August 30, 1946, the U.S. opined that "securities represent rights, interests, claims or shares... and should therefore be included in the concept 'property subject to restitution,'" in accordance with the London Declaration of 1943.(27) The U.S. felt that "securities... acquired directly or indirectly by persons resident in Germany from countries which were occupied or effectively controlled by Germany" during that period "should be regarded prima facie as having been looted." (28) Also, securities "shall in principle be subject to restitution to the Governments of countries in which they were acquired or from whose residents they were acquired. Exemptions should be authorized only in cases where existing holders of said securities can rebut, to the satisfaction of appropriate authority, the presumption that such securities or other evidences of ownership were looted." (29) All "identifiable looted securities should be returned at the earliest practicable date to the Governments of countries from which they were acquired... All non-identifiable looted securities should be held in safekeeping pending agreement by the Governments concerned as to how they shall be allocated among claimant nations whose claims have not been met by restitution of identifiable securities."<sup>45</sup> General Gailey summed up the U.S. position succinctly:

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National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investment; CORC/P[46]274, Allied Control Authority, Coordinating Committee, Delivery of Foreign Securities in Germany; August 17, 1946.

National Archives; RG 260; Finance; Box 130; File: Claims-Restitution; DFIN/P[46]198 Revise, Allied Control Authority, Finance Directorate, Draft Memorandum to the Coordinating Committee on Foreign Currencies and Securities in Germany; October 30, 1946.

<sup>42</sup> (20) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investment; Annex B, GEPC/P[46]48, Allied Control Authority, Legal Directorate, Delivery of Foreign Securities in Germany, May 28, 1946

<sup>43</sup> National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; Cable WX-90450; June 7, 1946

<sup>44</sup> National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investment; CORC/P[46]274, Allied Control Authority, Coordinating Committee, Delivery of Foreign Securities in Germany, August 22, 1946

<sup>45</sup> National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments;

“German-owned foreign securities and currencies, wherever they might be found, were ‘rights, titles and interests in respect of property outside Germany’ and were vested in the German External Property Commission for ultimate disposition in accordance with the Potsdam provisions.”<sup>46</sup> The basic position of the Americans, British, and French was that foreign securities found in Germany “must be regarded as German external assets and must be subject to Control Council Law No. 5.”<sup>(32)</sup> The Soviets then countered that the question of disposition of securities be deferred until the “final settlement of United Nations reparations claims against Germany, since these two questions were closely related.”<sup>47</sup>

Both Britain and the United States renounced all claims to securities found in Bulgaria, Finland, Hungary, Romania, and the Soviet-controlled zone of eastern Austria.<sup>48</sup> The Soviet Union renounced claims in all other countries.<sup>49</sup> However, the Soviets, when holding German shares of businesses located elsewhere in Europe used those assets as reparations under the Potsdam decisions.<sup>50</sup> The U.S. was opposed to this Soviet interpretation, dryly noting that “it was certainly not the intention of the signers of the Potsdam Agreement to award to the Soviet Government all German owned foreign securities found in the Soviet Zone of occupation, irrespective of the physical location of the property.”<sup>51</sup> The Soviet Union, while agreeing that looted securities are subject to restitution and in fact, are reported to have returned many securities [although they were also accused of massive theft], opposed the U.S.-U.K.-French position that all securities acquired by Germany in occupied countries are presumed to be looted unless the contrary is proved [Soviets placed burden of proof of wrongful acquisition on claimant countries] and also opposed U.S.-U.K.-French proposal for pool of unidentifiable looted securities to satisfy any outstanding claims after restitution of identifiable looted securities.<sup>52</sup>

The question of restituting Austrian securities also arose in February 1946. The headquarters of U.S. Forces in Austria [USFA] was anxious to release the securities, which they considered to be of vital importance,” to the Austrians, contending that

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DFIN/P[46]223, Allied Control Authority, Directorate of Finance, Disposition of Foreign Securities Uncovered in Germany.

<sup>46</sup> (31) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; Cable CC-5679; October 16, 1946.

<sup>47</sup>(33) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; Cable CC-5679; October 16, 1946

<sup>48</sup> (34) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; Cable CC-5679; October 16, 1946

National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; CORC/P[46]383, Foreign Currency and Foreign Securities Found in Germany; December 3, 1946

<sup>49</sup> (35) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; Cable CC-5679; October 16, 1946

<sup>50</sup> (36) National Archives; RG 260; AG Decimal File; Box 95; File: German Assets; April 2, 1946

<sup>51</sup> (37) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; CORC/P[46]383, Foreign Currency and Foreign Securities Found in Germany; December 3, 1946

<sup>52</sup> (38) National Archives; RG 260; Property Division; Box 16; File: Securities; September 25, 1947

National Archives; RG 260; External Assets; Box 590; Sale of Securities - Berlin Banks; “Evidence of Sale by Soviet Authorities, Through Black Market Channels, of Securities Formerly on Deposit in Berlin Banks; December 14, 1948

securities of the former Wertpapiersammelbank [a clearinghouse for depositing securities whose only participants were Viennese banks],<sup>53</sup> now the National Bank of Vienna, were shipped to Regensburg prior to the liberation of Vienna. Their presence, according to USFA, was therefore accidental.

OMGUS initially rejected this argument, explaining that there was no restitution policy concerning Austrian assets.<sup>54</sup> However, contrary to the wishes of the other three allies who considered all foreign securities held in Germany as vested under Control Council Law 5,<sup>55</sup> OMGUS changed its mind and indicated its willingness to release the securities to General Mark Clark in Austria.<sup>56</sup> According to the provisions of this law, the restitution of these vested foreign securities required Control Council approval "regardless of their location within Germany."<sup>57</sup> The War Department did not want to press the matter any further at that time, stating that "no action should be taken to transfer securities" to Austria,<sup>58</sup> but AGWAR stated that USFA "be invited to make examination hand audit in Germany of records and securities as they consider desirable."<sup>59</sup> In March 1947, however, OMGUS went ahead and shipped the securities to USFA in order to prepare an inventory, but ordered no disposition.

On May 25, 1946, the OMGUS Office of Political Affairs informed the Finance Division that the eventual restitution of securities would be done with countries, "since the government in question will no doubt take measures to protect the legitimate owner."<sup>60</sup>

Quadrupartite discussions concerning the restitution of securities [as well as currencies], got bogged down in dispute. These central disagreements with the U.S.S.R. could not be bridged by April 1947, so the Joint Chiefs of Staff, through AGWAR, informed General Keating of OMGUS that he was "authorized to effect restitution identifiable lots of looted securities."<sup>61</sup> The Americans, having noted that the British had already started, began preparing inventories for restitution, beginning with the Dutch government regarding Treuhand securities, as well as Swedish securities found within the U.S. Zone to

<sup>53</sup> (39) National Archives; RG 260; USACA Decimal Files; Box 10; File #102.1 - Financial Accounting - Currency Conversion; Cable CC-23473; March 8, 1946.

<sup>54</sup> (40) National Archives; RG 260; USACA Decimal Files; Box 10; File #102.1 - Financial Accounting - Currency Conversion; Cable CC-22509; February 2, 1946

(41) *ibid*

<sup>55</sup> (42) National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; Cable WX-90450; June 7, 1946

<sup>56</sup> (43) National Archives; RG 260; USACA Decimal Files; Box 10; File: Financial Accounting; Currency Conversion; Cable MC IN 22807; March 17, 1946

<sup>57</sup> (44) National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; Cable WX-90450; June 7, 1946

<sup>58</sup> (45) National Archives; RG 260; External Assets; Box 649; File: GEPC Policy; Cable WX-81819; March 24, 1946

<sup>59</sup> (46) National Archives; RG 260; External Assets; Box 649; File: GEPC Policy; Cable WX-92431; June 26, 1946

<sup>60</sup> (47) National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; May 25, 1946

<sup>61</sup> (59) National Archives; RG 260; Finance Division; Box 160; File: Authorizations for Assets Released by FED; ; Cable WX-96654; April 23, 1947

Stockholm.<sup>62</sup> The State Department was “exceedingly anxious” to begin restitution to Holland because of the large amounts involved and “also because prompt restitution would contribute considerably to European self-help program which this Govt favors.”<sup>63</sup> The invading Germans, in 1940, had required all Jewish securities to be deposited with Lippman, Rosenthal & Co. in Holland where they would soon be sold by the German management or sent to Germany. At the end of the war, all the records concerning securities, fell into the hands of the Dutch Government.<sup>64</sup>

The Economics Division of OMGUS ordered its Restitution Control Branch on September 5, 1947 to “accept and process claims for the restitution of securities and, upon proper identification and proof of removal from the territory of a country eligible for restitution, make restitution in the normal way to the claimant nation, except that, “for the time being,” the following classes of securities shall not be released for restitution:

- a) Securities issued by German corporations or the German Government [“German securities”]
- b) Securities issued by non-German corporations or Governments [“Foreign securities”] which are shown to have been German-owned prior to the occupation of the country concerned.”<sup>65</sup>

On April 14, 1948, OMGUS unveiled a 4-phase plan to dispose of securities:<sup>66</sup>

Phase 1 - External restitution with recommended cut-off date of December 31, 1948, after which no further claims would be accepted.

Phase 2 - Internal restitution which could be cut-off shortly after December 31, 1948, the date which all petitions under MG Law 59 must be filed.

Phase 3 - Screening of claims for release to owners of securities which had not been found to be subject to external or internal restitution, with cut-off date after December 31, 1948.

Phase 4 - All securities which have been found not to be subject to external or internal restitution, nor returnable to claimants under the third phase, to be disposed of after December 31, 1948.

OMGUS had warned Washington in October 1947 that “the processing of claims for restitution constitutes a very heavy demand” upon its staff “and the US delegation cannot agree to maintain such a considerable staff for an indeterminate period.”<sup>67</sup>

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<sup>62</sup> (60) National Archives; RG 260; Finance Division; Box 160; Cable CC-1117; August 4, 1947

<sup>63</sup> (61) National Archives; RG 260; Finance Division; Box 160; Cable WX-87155; September 27, 1947

<sup>64</sup> (62) National Archives; RG 131; Foreign Funds Subject Files; Box 404; File: Securities - Caveat List; March 11, 1947

National Archives; RG 131; Foreign Funds Subject Files; Box 405; File: IX; “To the attention of Paying Agents”; May 2, 1949

<sup>65</sup> (64) National Archives; RG 260; External Assets; Box 677; File: Restitutions; Memorandum No. 10, “Restitution of Securities”; October 3, 1947

<sup>66</sup> (82) National Archives; RG 260; Property Division; Box 5; File: Disposition of Property of War Criminals; Cable CC-3852; April 14, 1948

<sup>67</sup> (83) National Archives; RG 260; Property Division; Box 14; File: Restitution of Securities; Cable CC-2029; October 19, 1947

It was OMGUS policy that all foreign restitution missions seeking return of securities should submit their claims with a statement to the effect that the securities claimed are not securities of German issue and were not German-owned at the time the occupation of the country began. OMGUS also stated that in case of conflicting claims, "the burden would be placed on all claimants for the particular security to substantiate their claims and no delivery would be made until the dispute was settled."<sup>68</sup>

By July 31, 1948, the U.S. and Britain agreed to hold up all restitution of securities to the USSR and its satellites, "pending receipt of possible independent claims by non-nationals or refugee nationals of the claimant Govts."<sup>69</sup>

OMGUS denied claims it felt were essentially commercial transactions. The subscription to or purchase of new issues during occupation will presumed to have been a normal transaction upon the grounds that the economy of the occupied country benefited to the extent of the counter value invested in that country at the time! On the other hand, the U.S. decreed that restitution will take place when the German owner or holder cannot show that acquisition from the occupied country took place in the course of a transaction essentially commercial in character.

In developing a set of restitution rules, the term "otherwise" as used in the London Declaration regarding removal of securities, was interpreted restrictively by OMGUS to include only such property which was acquired in a transaction not essentially commercial in character, i.e., a transaction which, in fair appreciation of all factors, would not likely have been entered into by the parties if it had not been for the special conditions created by the occupation. The fact that payment was made and that the parties, as far as OMGUS was concerned, may have acted in good faith, is immaterial.<sup>70</sup> OMGUS policy held that the claimant nation must prove that removal of securities were by force or duress in a specific case. The general allegation that the sale took place as a consequence or under the pressure of occupation is not sufficient to establish restitutability.<sup>71</sup> "Aryanization" in the form of a purchase and sale is not by itself sufficient to prove removal by force or duress.<sup>72</sup> The U.S. found as a matter of restitution law and procedure that the general assertion of economic penetration is not sufficient to prove removal by force or duress.<sup>73</sup> The U.S. believed that adjusting the conflicting interests of the parties concerned is a matter incumbent upon the proper courts and authorities of the country in

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<sup>68</sup> (84) National Archives; RG 260; Property Division; Box 5; File: Disposition of Property of War Criminals; Cable CC-3852; April 14, 1948

<sup>69</sup> (85) National Archives; AG Decimal File; Box 511; File #602.3 - Restitutions; Cable CC-5364; July 31, 1948

<sup>70</sup> (86) National Archives; RG 260; Economics Division; Box 353; Czech Claims

<sup>71</sup> (89) National Archives; RG 260; Economics Division; Boxes 353-354; File: Czech Claims  
National Archives; RG 260; Economics Division; Box 360; File: Dutch Claims

<sup>72</sup> (90) National Archives; RG 260; Economics Division; Box 361; Austrian Claims

<sup>73</sup> (91) National Archives; RG 260; Economics Division; Box 353; Czech Claims

which the aryanization occurred.<sup>74</sup>

Other reasons for rejecting claims included the absence of certificate numbers; when securities never left occupied country or were never in the occupied country;<sup>75</sup> lack of identifiability as it follows from the nature of "Girosammeldepot" that there is no title to specific certificates;<sup>76</sup> names of specific owners not given; securities in question not found in U.S. Zone; bonds held by same owner before the occupation; when securities were transferred to Germany during occupation due to heirship matters;<sup>77</sup> lack of description of the securities in question;<sup>78</sup> mere fact of abolition of foreign exchange restrictions between occupier and occupied nation;<sup>79</sup> and when securities were voluntarily sent to Germany.<sup>80</sup> Denied government claims remained on deposit with the Landeszentralbank under Law 53 awaiting final disposition.<sup>81</sup>

The United States differentiated between restitution claims and applications by the individual owners for the return of their securities in Germany. Restitution claims can only be filed by governments and must be based on removal by force or duress. It is immaterial who the owner is as long as the removal took place under circumstances of force or duress. As a matter of governmental restitution, title is of no consequence. On the other hand, every national of a formerly-occupied country was entitled to the return of any non-German securities which he had at any time on deposit in Germany and which have been located. For this purpose, the owners had to file an individual claim. Applications were received from the individuals and the securities and were returned directly to the individuals. These individuals were to be taken out of official channels.<sup>82</sup> However, government restitution took precedence over any individual claims.<sup>83</sup> Restitution of looted securities was to be done on a country-to-country basis "since the government in question will no doubt take measures to protect the legitimate owner."<sup>84</sup> An example of American preference for governmental restitution over individual restitution occurred in August 1950 when the Currency and Credit Branch of the U.S. High Commissioner for Germany [HICOG], informed a French citizen who filed a counterclaim to a French government claim for securities that little weight can be given to such counterclaims unless it is clearly demonstrated that the securities in question were located in Germany and were owned by the individual or another person in Germany on the date on which the claimant country has occupied or on which they were issued.<sup>85</sup>

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<sup>74</sup> (92) National Archives; RG 260; Economics Division; Box 351; French Claims

<sup>75</sup> (93) National Archives; RG 260; Economics Division; Box 353; Czech Claims

<sup>76</sup> (94) National Archives; RG 260; Economics Division; Box 354; Czech Claims

<sup>77</sup> (95) National Archives; RG 260; Economics Division; Box 356; Czech Claims

<sup>78</sup> (96) National Archives; RG 260; Economics Division; Box 359; Dutch Claims

<sup>79</sup> (97) National Archives; RG 260; Economics Division; Box 358; Dutch Claims

<sup>80</sup> (98) National Archives; RG 260; Economics Division; Box 355; Czech Claims

<sup>81</sup> (99) National Archives; RG 260; Economics Division; Box 360; Dutch Claims

<sup>82</sup> (100) National Archives; RG 260; Economics Division; Box 359; Dutch Claims

<sup>83</sup> (101) National Archives; RG 260; Economics Division; Box 348; French Claims

<sup>84</sup> (102) National Archives; RG 260; External Assets; Box 650; File: Policy - Germany External Assets; May 25, 1946

<sup>85</sup> (103) National Archives; RG 260; Economics Division; Box 348; French Claims

### *Amount*

By August 31, 1946, OMGUS had 4,566 units of securities, worth approximately 734 million Reichsmarks. Of the 10.5 billion Reichsmarks worth of property under U.S. control in Germany, 664 million Reichsmarks worth was looted.<sup>86</sup> Again there was no breakdown of looted securities.

### *Restitution to IGCR*

On June 15, 1946, the U.S., Great Britain, France, Czechoslovakia, and Yugoslavia, "worked out" a plan with the inter-Governmental committee on refugees whereby that organization would receive \$25 million from the "proceeds of the liquidation of German assets in neutral countries." The five countries stated "that in light of paragraph H of Article 8 of the Paris Agreement on reparation, the assets becoming available should not be used for the compensation of individual victims but for the rehabilitation and resettlement of persons in eligible classes..." Eligible persons are victims of Nazi persecution for religious, racial, or political reasons who were a) resident in Germany or Austria and plan to emigrate; or b) nationals of occupied countries. In addition to the \$25 million "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." Meanwhile the agreement stated that "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," while the 'heirless funds' to be used for the non-Jewish victims "should be made available to the Inter-Governmental Committee on Refugees or its successor organization for distribution to appropriate public and private field organizations. The five nations then called upon the neutral countries to assist in collecting, identifying, and distributing these assets. Because "the overwhelming group of eligible victims were Jewish," the Paris Conference on Reparations "allocated \$22.5 million out of German assets in neutral countries, 90 percent of the non-monetary gold and 95 percent of the 'heirless funds' for the rehabilitation and resettlement of Jews."<sup>87</sup> On July 19, 1946, AGWAR instructed OMGUS that the purchase

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<sup>86</sup> (24) National Archives; RG 46; Entry: OP-58 - Military Government in Germany; Box 1002; File: Monthly Reports of Military Government, September 1946; "Finance and Property Control, September 20, 1946, No. 14"

<sup>87</sup> (48) National Archives; RG 260; Finance Division; Box 50; File: Gold and Silver [Hungarian Restitution]; Telegram 228; June 15, 1946

of securities “for fair value in good faith should not be” a defense against a restitution claim based upon duress or forced transfer.<sup>88</sup>

In January 1947, the Joint Chiefs of Staff instructed OMGUS through Cable WX-88566 the following regarding securities:

- a) seek agreement through the Control Council regarding their disposition;
- b) establish inventories;
- c) securities removed to Germany from other countries which were occupied or controlled shall be regarded as loot;
- d) present owner may rebut the presumption that such securities were looted;
- e) IARA countries must report any German interest established in securities restituted to them;
- f) securities removed to Germany for safekeeping will be returned to government of country from which removed;
- g) securities falling within Cable WX-85682 to be delivered to Inter-Governmental Committee on Refugees.<sup>89</sup>

The JCS envisioned a “security pool” where all securities found in Germany would be deposited. Then, identifiable looted securities would be returned to the claimant country; safekeeping securities to be returned to country of source; non-identifiable looted securities to be delivered to IGCR.<sup>90</sup>

General Clay of OMGUS asked for assistance from AGWAR in February 1947 regarding the question of securities that “may be exempted or suspended from delivery to intergovernmental committee on refugees” due to: a) ‘their insignificant value compared to bulk of loot; b) the obstacles which would be encountered in their liquidation; and c) the United States position taken in Control Council which has been contrary to the disposal principle.’<sup>91</sup>

### *Issue of ownership*

Restitution of securities to their rightful owners was complicated by the fact that some of the securities in question were “bearer securities and offer no evidence as to rightful ownership; some of the securities in question are of German issue and special procedures

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<sup>88</sup> (55) National Archives; RG 46; OP-58 - Military Government in Germany; Box 1003; File: Policy Coordination Requests to Washington for Policy Decisions; Cable WX 94867; July 19, 1946

<sup>89</sup> (56) National Archives; RG 260; Finance; Box 161; File: Disposition of Valuables; “Disposition of Valuables”; January 28, 1947

<sup>90</sup> (56) National Archives; RG 260; Finance; Box 161; File: Disposition of Valuables; “Disposition of Valuables”; January 28, 1947

<sup>91</sup> (81) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; “external Restitution”; February 3, 1947

National Archives; Finance; Box 161; File: Disposition of Valuables; Cable CC-7904; February 3, 1947

are required to trace their prior ownership and location; some of the securities in question were originally owned by persons who have been exterminated and claimant countries would not necessarily have any record on which to base a claim for restitution; it is deemed almost impossible administratively to differentiate between cases of looting of securities and legitimate acquisition.”<sup>92</sup> The Germans used bearer securities to a massive degree in order to cloak actual ownership.<sup>93</sup>

AGWAR stressed that “all identifiable looted securities should be returned to Govts of countries from which they were acquired or from whose residents they were acquired.”<sup>94</sup> Britain and France would agree with the United States that looted securities be restituted to governments of countries which would apply to those securities looted during the period of German occupation. However, the Adjutant General added, some other method will have to be devised for restitution of looted securities originally issued in Germany or Austria.

### *Valuation*

The Foreign Exchange Depository found it virtually impossible to find one single measuring stick for a valuation of securities [including promissary notes]. To facilitate valuation, several arbitrary assumptions were made: a) that governmental securities be valued at par; and b) that the lowest price on certain dates be taken for valuation purposes in valuing non-governmental securities.<sup>95</sup>

On April 30, 1946, the FED suggested that where the par value is expressed in another currency than that of the issuing country [i.e. external assets], it is suggested that the following methods of conversion into the issuing country’s currency be used: a) in the case of enemy countries at the exchange rate existing on date of issuance; and b) in the case of all countries, valued on basis of bid price [in the country in which the issue has been made], the bid price to be as of 31 December 1944, 31 December 1945, 31 March 1946, whichever is lower. The valuation thus arrived is to be converted into terms of the issuing country’s currency at the current official exchange rate.<sup>96</sup>

As for non-governmental securities, the FED suggested valuation, where quotation is available, valuation should be based upon the bid price for the security concerned as of 31

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<sup>92</sup> (65) National Archives; RG 260; Reparations and Restitution Branch; Box 27; File: Misc. Restitution; Cable CC-7533

<sup>93</sup> (66) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; Brief on CORC/P[47]186/1, “Conservation Measures Relating to Foreign Securities”; ca August 1947

<sup>94</sup> (67) National Archives; RG 260; Restitutions and Reparations; Box 21; File: Silver Securities; April 25, 1947

<sup>95</sup> (68) National Archives; RG 260; FED; Box 464; File: Appraisal, Securities; “Discussion of Suggested Plan for Valuation of Securities”

<sup>96</sup> (68) National Archives; RG 260; FED; Box 464; File: Appraisal, Securities; “Discussion of Suggested Plan for Valuation of Securities”

December 1944, 31 December 1945, 31 March 1946, whichever is lower. Whenever a quotation is not available, valuation should be obtained by competent authorities in the country concerned.<sup>97</sup>

As for conversion of securities into currency, the FED suggested that non-German securities be converted “at current official rate for Military Reichsmarks in the case of U.S. securities, but this is merely an arbitrary figure taken for valuation purposes only.” With all other securities, “first convert valuation into U.S. dollars at official rate.”<sup>98</sup>

On July 1, 1946, the FED reported “about 500 bags of assorted securities” in their possession.<sup>99</sup> “The largest class of securities in volume seems to be the Columbia [French valued at \$2 million and eventually delivered on October 29, 1948]<sup>100</sup> and Concordia Petroleum Corp. shares [also French and valued at \$7 million].<sup>101</sup> The FED said it would take six weeks to prepare an inventory for these securities.<sup>102</sup> On January 28, 1947, the FED announced it had “twenty shipments” of securities, “largely originating from Reichsbanks as foreign exchange assets. A few securities have been found among the effects of concentration camp inmates. The total securities held constitute a considerable volume. The inventory of securities has only recently been started... Outside of the volume, source in Germany from which received, and cursory inspections revealing securities of many types, little is known about the detailed composition of securities held.”<sup>103</sup> Yet, when the British made in inquiry in July 1947 about Hungarian securities “presumably located” at the Foreign Exchange Depository in Frankfurt, the FED informed them that “no complete inventory of the securities in their custody had been accomplished yet.”<sup>104</sup>

One group of securities that was inventoried were the securities found in the Orphans

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<sup>97</sup> (68) National Archives; RG 260; FED; Box 464; File: Appraisal, Securities; “Discussion of Suggested Plan for Valuation of Securities”

<sup>98</sup> (68) National Archives; RG 260; FED; Box 464; File: Appraisal, Securities; “Discussion of Suggested Plan for Valuation of Securities”

<sup>99</sup> (73) National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; “Status Report on Assets Held in Foreign Exchange Depository”

<sup>100</sup> (74) National Archives; RG 260; FED; Box 423; Weekly Progress Report #121; November 1, 1948  
National Archives; RG 260; FED; Box 423; “Request for Evaluation of Property Restituted from FED”; arch 16, 1949

National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; “Status Report on Assets Held in Foreign Exchange Depository”

<sup>101</sup> (75) National Archives; RG 260; FED; Box 423; “Request for Evaluation of Property Restituted from FED”; March 16, 1949

National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; “Status Report on Assets Held in Foreign Exchange Depository”

<sup>102</sup> (76) National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; “Status Report on Assets Held in Foreign Exchange Depository”

<sup>103</sup> (77) National Archives; RG 260; Finance; Box 161; File: Disposition of Valuables; “Disposition of Valuables”; January 28, 1947

<sup>104</sup> (78) National Archives; RG 260; Property Division; Box 21; File: Silver Securities; “Hungarian Securities of J.&P. Coats, Ltd.”

Court deposits discovered in Magdeburg, Germany by the U.S. Army. These securities, along with other Orphans Court items such as gold, silver, platinum mesh, jewelry, coins, and currency [American, Swiss, Canadian, Yugoslav, Romanian], which did not make the Silver train of April 1947 because of their disputed nature, were restituted to Hungary in August 1947. OMGUS valued the securities from \$200 to \$760,000.<sup>105</sup>

On March 10, 1949, the FED drew up a list of securities that were restituted to the nations they were looted from. Securities were valued from a range of just \$1 [Russian] to almost \$7 million [French Concordia shares]. The FED estimated \$14 million worth of securities had been restituted to various nations from the U.S. Zone in Germany.<sup>106</sup>

#### *Law 53 securities*

The balance of foreign securities held under Military Government Law 53 which were not restituted or returned to their rightful non-German owner, were to be disposed of as reparations under the Potsdam Agreement and the Final Act of the Paris Conference on Reparations. All securities that were issued by the occupied country were to be restituted back to their country of origin. All German-owned foreign securities were subject to the reparations obligation of Germany and were to be handed over to the government of the country of issue, irrespective of date and manner of acquisition and without the recipient government being required to file a claim.<sup>107</sup>

#### *Disposition deadlines*

The U.S. Military Government in Germany [OMGUS] established a deadline of December 31, 1948 for the filing of claims for securities and other property items. 825 claims for more than 500,000 individual securities [in many instances a single claim covered several thousand securities] were received before that date:<sup>108</sup>

<u>Countries</u>	<u># of Claims Filed</u>
Austria	9
Belgium	162
Czechoslovakia	331
France	76
Italy	1
Luxembourg	3

<sup>105</sup> (79) National Archives; RG 260; Property Division; Box 51; File: Book 2; "Restitution Claim No. 2250-M"; August 27, 1947

<sup>106</sup> (130) National Archives; RG 260; FED; Box 423; File: List and Evaluation of Assets Restituted or Released by the FED; "Request for Evaluation of Property from FED"; March 10, 1949

<sup>107</sup> (120) National Archives; RG 260; Economics Division; Box 358; Dutch Claims

<sup>108</sup> (121) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; "External Restitution"

Netherlands	175
Norway	3
Poland	5

However, OMGUS did leave the door open for external restitution claims to be filed after the deadline if the claims were “substantial.” But, they held fast to the December 1948 deadline for internal restitution, even persuading the British and French to move their deadlines forward to that date.<sup>109</sup>

OMGUS stated on that it was engaged in reviewing the claims and that actual restitution would begin in January 1949, “with the initial releases being issued for the return of securities to Netherlands and Belgium.”<sup>110</sup> Czech claims included securities of Jewish-owned plants that were aryanized and the securities removed to Germany.<sup>111</sup>

To facilitate disposition, the securities were transferred in January 1949 from the FED to the Landeszentralbank von Hessen in Frankfurt, to be held in the account for OMGUS.<sup>112</sup> Within OMGUS, the responsibility for restitution of securities was transferred from the Reparations and Restitution Section to the Finance Division on April 11, 1949.<sup>113</sup> Security restitutions would continue through 1951.<sup>114</sup>

~~Yet, in July 1948~~, the United States did not consider the January 5, 1943 date to be a cut-off for restitution of securities. The key date for ownership of securities with regard to external restitution [to countries] was September 1, 1939, the start of World War II. The key date for ownership of securities with regard to internal restitution [to individuals] was January 30, 1933, the beginning of the Hitler dictatorship in Germany.<sup>115</sup>

<sup>109</sup> (123) National Archives; RG 260; Finance; Box 130; File: Claims-Restitution; August 7, 1948

<sup>110</sup> (123) National Archives; RG 260; Finance; Box 130; File: Claims-Restitution; August 7, 1948

<sup>111</sup> (126) National Archives; RG 260; Economics Division; Box 353; Czech Claims; January 31, 1948

<sup>112</sup> (127) National Archives; RG 260; Finance; Box 428; File: Outgoing Shipment 17; “Shipping Ticket”; January 18, 1949

<sup>113</sup> (128) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; “Unfinished Business in Reparations and Restitution Program”

<sup>114</sup> (129) National Archives; RG 260; Economics Division; Box 355 File: Czech Claims; “Ludwig Meyerheim”

<sup>115</sup> (118) National Archives; Finance; Box 130; File: Claims-Restitution; “Draft Press Release”; July 17, 1948

## JEWELRY

As with diamonds, Nazi Germany looted jewelry from Jews in order to export them for hard currency. Some of the stolen pearls and watches were valued by the Germans as worthless, due to discoloration or the need for repairs.<sup>116</sup>

While it took Nazi Germany six years to expropriate Jewish property [including jewelry], their Hungarian lackeys attempted in 1944 to do the dirty deeds in six months. Hungarian Jews were ordered to deliver all their valuables, especially jewelry, to governmental authorities.<sup>117</sup> As the fall of the Nazi government in Hungary approached in early 1945, confiscated jewelry was among the many items shipped by train toward Germany. The train was intercepted in Austria by Allied forces.

On April 8, 1945, “an immense amount” of jewelry, among other valuables, was discovered at the Merkers Salt Mine in Germany.<sup>118</sup> An estimated 2,527 pounds of precious and semi-precious stone, as well as novelty jewelry was discovered in the mine, a hideaway for SS loot.<sup>119</sup>

Other SS looted jewelry discovered by Allied forces came from concentration camp victims in Buchenwald and Dachau; a sewer of a cement factory in Eiberg, placed there by the Lieutenant General of Police in Berlin; Friedrichshall Salt Mine in Strassfurt; the Reichsbank in Frankfurt; the Reichsbank in Holzminder containing looted French valuables; the Reichsbank in Regensburg containing looted Czech valuables; Bad Aussee, Austria; dredged from the Enns River; watches found at the Reichsbank at Eschwege; brooches and bracelets deposited at Kreissparkasse, Garmisch-Partenkirchen by two Wehrmacht officers; plus watches and cuff links belonging to Eva Braun and found on the possession of an SS member.<sup>120</sup> The Buchenwald cache, discovered in a cave by the 1<sup>st</sup> U.S. Army, also consisted of such items as tableware and teeth fillings. Major Whitman of the 1<sup>st</sup> Army suggested that the Buchenwald items be placed in safekeeping for the War Crimes Section.<sup>121</sup>

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<sup>116</sup> National Archives; RG 260; Entry: Finance Division; Box 423; Letter to Berlin City Pawn Shop; “Price quotation in the evacuation lists”; September 14, 1943

<sup>117</sup> (3) National Archives; RG 208; Entry: OWI Overseas Branch, Bureau of Overseas Intelligence Central Files; Box 275; File: Balkans [Hungary]; Memo from Krould, “Jewish Expropriation in Hungary”; July 11, 1944

<sup>118</sup> (4) National Archives; RG 260; Entry: Finance Division; Box 50; File: Gold & Silver [Hungarian Restitution]; “Shipment 1”; circa April 1945

<sup>119</sup> (5) National Archives; RG 260; Entry: Finance Division; Box 50; File: Gold & Silver [Hungarian Restitution]; “Contents of Shipment 1”; circa April 1945

<sup>120</sup> (6) National Archives; RG 260; Entry: Finance Division; Box 50; File: Gold & Silver [Hungarian Restitution]; “Data Re S.S. Loot”; no date

National Archives; RG 260; Entry: Adjutant General; Box 806; File: CCS 845 Series; “Summary Inventory of Currency and Financial Assets Stored in Reichsbank Frankfurt-am-Main”; no date

<sup>121</sup> (7) National Archives; RG 260; Entry: Finance Division; Box 50; File: Gold & Silver [Hungarian Restitution]; “Shipment 16”; circa May 1945

Jewelry, gold teeth, rings, and foreign currency, among other valuables robbed from concentration camp victims, were shipped by the SS to the Reichsbank in Berlin where they were evaluated before their equivalent amount was deposited in the Reichsbank Treasury. The gold fillings from victims' teeth were then melted into gold bars.<sup>122</sup> The gold bars were then exported to Switzerland for hard currency to continue the financing of the Nazi war machine. Therefore, Swiss willingness to purchase German gold bars extracted from Jewish concentration camp victims, provided an economic incentive for the Nazi extermination of Jews.

The U.S. Military Government delivered the Czech valuables found at Regensburg to the Foreign Exchange Depository [FED] in June 1945. OMGUS informed the Czech Restitution Mission of the seized property and a claim was subsequently filed by the Mission. An "Authority for Release" was issued in September 1948 and shipment of the valuables to Czechoslovakia was undertaken that October. As it turns out, among the valuables shipped out, included gold watches; pearls; bracelets; gold brooches; gold chains; silver necklaces; gold earrings; and gold and silver rings belonging to two American citizens, Emil Freund and Hanna Feigl.<sup>123</sup> However, OMGUS efforts to retrieve the items were met by silence by the now-hostile, communist Government of Czechoslovakia.

As of June 4, 1946, the FED still contained "approximately 50,000 ounces of non-monetary gold on hand, in the form of watches, chains, tableware, jewelry, dental gold, Rings," and pins.<sup>124</sup> The jewelry, packed in 500 assorted boxes, sacks, and suitcases, was still not inventoried for restitution purposes by July 1946.<sup>125</sup>

In August 1946, a German newspaper reported that OMGUS informed them that about \$1 billion worth of jewelry looted by the Nazis will be delivered to the IRO

The FED also housed the jewelry of Eva Braun and the Goering family. The Adjutant General instructed OMGUS to "release it to the Amtsgericht-Hinter legunstelle in Frankfurt-on-Main for disposition pursuant to applicable German law."<sup>126</sup> This despite

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<sup>122</sup> (9) National Archives; RG 260; Entry: Finance Division; Box 423; "Interrogation of Oswald Pohl at Nuernberg trials"; June 8, 1946

<sup>123</sup> (11) National Archives; RG 260; Entry: Property Division; Box 22; File: Freund/Feigl Restitution Case; Letter with enclosures from Daniels to Fisi; September 11, 1950

<sup>124</sup> (13) National Archives; RG 260; Entry: Finance Division; Box 50; File: Gold 7 silver [Hungarian Restitution]; Memo from Brey; "Non-Monetary Gold"; June 4, 1946

<sup>125</sup> (14) National Archives; RG 260; Entry: External Assets; Box 649; File: Gold & Other Metals; Memo from Brey to OMGUS Finance Division Director; "Status Report on Assets Held in Foreign Exchange Depository"; July 1, 1946

<sup>126</sup> (15) National Archives; RG 260; Entry: Property Division; Box 8; File: Goering Jewelry; Memo from Garde to Director, Office of Military Government for Hesse; "Disposition of Property; no date

the fact that Hermann Goering was widely known as a notorious looter and the items in question were valued at more than 15 million francs!<sup>127</sup>

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<sup>127</sup> 16) National Archives; RG 260; Entry: Property Division; Box 8; File: Goering Jewelry; "Inventory Shipment No. 76 appraised items"; no date

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**INSURANCE RESEARCH AT THE NATIONAL ARCHIVES**

There is a rich, detailed collection of insurance documents at the National Archives relating to World War II, the Holocaust, and postwar Europe as well. Fortunately for us researchers, Dr. Greg Bradsher and his team have periodically compiled useful finding aids to help guide us to some of the more pertinent items of interest.

As a researcher, I like to start with the basics; the overviews; the macro approach, and then work my way into the details. The place to start a foundation for insurance in the Archives is in Record Group 260, the OMGUS records, the military government of the U.S. in Germany. Box 248 of the Deputy Director of the Economics Division of OMGUS contains a very good history of the German insurance industry, including German insurance during the National Socialist regime. This document shows the Nazis partaking of the large capital reserves held by German insurance companies by filling the leading positions in the insurance field with trusted party men. The formation of a Reich monopoly for the privately-owned insurance companies was considered by the Party as a necessary step in a program which envisioned the eventual nationalization of the German insurance business. In addition to attempts to infiltrate into the management of the private insurance companies as a means for controlling the companies, the Nazi party, by decree, exerted pressure on the insurance companies to divert funds from the normal insurance investment channels into Reich securities or loans to industries: initially in such ventures as Autobahn construction, then later, in war industries. The four largest German insurance companies in the U.S. Zone claimed after the war that they were able to resist Nazi pressures to dominate their organizations and that they never contributed more than a minimal amount to the Party's programs. This, however, was not borne out by the facts of this document.

Box 11 in the records of the Branch Chief of the Property Control and External Assets Branch of OMGUS also

contains an excellent overview of the German insurance industry. This report sheds light on reinsurance, the program where insurance companies spread risks among each other. This document also explores German exploitation of fresh opportunities for profit that opened up as one European country after another was overrun. These opportunities were enhanced by the enforced withdrawal of British companies with their long established connections, especially in Western Europe and in Scandinavia. In many instances, the Germans also took over the business of their non-enemy competitors. In defeated France, negotiations with the French insurance cartel gave the German companies a free hand. The report also goes into detail about German takeover of the insurance industries in Belgium, Yugoslavia, Denmark, Romania, Turkey, Spain, Portugal, and Hungary to fuel their war machine. It goes on to study the German life insurance field, in particular, as "the outstanding branch" in the industry because it has the largest capital investments. Meanwhile, it is stated that Swiss insurance companies were allowed to flourish in Germany, Belgium, and France while operating less actively in Holland, Luxembourg, Egypt, Syria, and Spain. In fact, in another OMGUS document, the Americans are astonished to learn that the Swiss companies operated without interruption throughout the war.

Box 61 of the Financial Institution Branch's Insurance and Central Bank Policies in the OMGUS records has a file on German insurance policies. This is the most detailed folder I have found on the status of Jewish insurance policies. One OMGUS document says that in 1941, insurance companies had to transfer all reserves securing policies held by Jews and other "undesirables" to the Reich Ministry of Finance. The insurance companies were then relieved of any further liabilities with respect to these policies. There is also a letter from the son (an American citizen) of a concentration camp victim frustrated in his attempt to collect a \$6,000 life insurance payment from a Swiss insurance company operating in Hamburg, because of the fallen Reich's assumption of responsibility.

OMGUS records also detail:

- German involvement in the Czech insurance industry
- the establishment of the DKG, the German War Risk Insurance Association created by the Third Reich in 1939 for the purpose of insuring seaborne freight against risks of war, in which all transport companies were members, and in which, the Reich had overwhelming influence, actually setting rates and terms.
- German-Swiss insurance company cooperation
- the postwar liquidation of German insurance companies associated with the German Labor Front
- licensing of German insurance companies to reopen for business after the war  
postwar German insurance company irregularities

Record Group 165, the War Department General and Special Staffs, also contains an excellent overview of the German insurance industry in Entry 179, the Interrogation Reports & Correspondence on POW's. There is much information on the public insurance industry, the Brunswick institutions, covering every conceivable type of insurance, from cattle to life. Public insurance in pre-Nazi Germany was controlled by the state governments. After 1933, the Reich's Ministry of Economics took over the business. A particularly helpful chapter describes the influences of the war on public insurance.

Record Group 169, the Foreign Economic Administration, contains Entry 157, Research Reports & Studies. The records here discuss American worries during the war of insurance information regarding shipping and cargo to and from Latin America being leaked to the Germans because of the Axis domination of the insurance industry in that part of the world. Box 15 discusses Spanish-controlled firms acting as a front for Italian insurance companies in Argentina. Axis insurance companies are seen as having a cozy relationship with the Chilean government.

Record Group 226, the OSS, has some information on the Axis penetration of the European and Latin American insurance markets. These records are located in Box 3 of Entry 37, Correspondence of the Division Chief of the Europe-Africa Division.

Within the Economic Warfare Section of the Antitrust Division of the Department of Justice, Record Group 60, is documentation of reinsurance between German and Japanese insurance agencies in October 1941, particularly Munchener Ruckversicherungs and Tokyo Fire Insurance Company. There is also material on the German insurance company, Victoria, extending its business into the occupied countries of western Europe. It is stated within this collection that the Axis insurance structure is "a powerful agency in the economic control of the continent." By dominating the insurance field throughout Europe, profits of some Axis insurance companies were doubled or tripled as they took over the cream of the insurance business, leaving the more dubious risks to domestic companies. These Axis firms also acquired control of the investment and management policies of insurance companies in occupied areas, "thus exerting a powerful influence in financial and industrial affairs."

RG 60 is also concerned with Italian insurance, the strategic importance of insurance information; and the Axis domination of the insurance market in Latin America. Box 95 of this series provides a list of American and foreign-owned companies doing reinsurance business in the United States.

Within Record Group 131, the Office of Alien Property, there is an entry known as the Foreign Funds Control Subject Files. Box 173 has a document on German laws, decrees, and regulations regarding insurance. Box 170 details:

- German insurance activities in Portugal, Spain, and Turkey
- German-French insurance cooperation
- German prohibition of private insurance companies writing life insurance policies for invalids.
- the termination of German insurance operations after the war.

Record Group 84, the Foreign Service Posts of the United States, provides a window into the postwar insurance situation within formerly fascist and neutral countries. Box 40 of the U.S. Political Advisor records for Germany show the Allied government appointing experts to the Insurance Institutions experienced in social insurance and having anti-fascist convictions.

Box 50 of the Political Advisor to the Supreme Allied Commander in the Mediterranean explores the question of the resumption of French and Italian insurance company activities following liberation.

Box 99 in the same series states that Italian insurance companies that operated out of Trieste (e.g. Riunione Adriatica) were closely allied with German interests during the war and that the Americans were determined to root out the fascist elements operating in the industry. This box also illustrates the frustration of American authorities at the Italian government's reluctance in "weeding out" the extensive undesirable elements" within the insurance sphere.

Box 106 of the US Legation records relating to Hungary detail Soviet pressures to squeeze out Italian insurance companies after the war, along with "recommendations" for "concessions" from Hungarian-owned insurance companies.



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