

1ST DRAFT

DIAMONDS

November 1999

The initial U.S. concern with looted diamonds occurred during World War II when Nazi Germany intercepted a ship filled with diamonds, estimated to weigh a half-million carats, traveling from Belgian Congo to Antwerp.(1) The principal American fear was that these diamonds would help finance the Nazi war effort. It was felt that diamonds, "even more than gold, would be perhaps the best medium" to improve their foreign exchange position, "because of the ease with which they could be transported and sold."(2) Following the confiscation of some of the diamonds at war's end by Portugese officials for customs laws violations, a Portugese judge denied Belgian claims and ordered the public auction of the stones.(3)

Also at war's end, Allied authorities confiscated a box of diamonds, suspected of being looted from German-occupied countries, from Erich Viehmann, a diamond cutter the U.S. Military Government accused of being a member of the SS.(4) Viehmann, meanwhile, considered himself "a victim of circumstances."(5) The confiscated diamonds weighed almost 3,000 carats and were estimated to be worth almost 7.6 million Reichsmarks.(6) Viehmann was a member of the Diamant-Kontor, a Reich consortium formed in 1939 and "engaged in the recutting, sale and export of diamonds and jewelry" looted exclusively from Jews in Holland, France, and Belgium during the war.(7) The Diamant-Kontor purchased the diamonds from the Pfondliche, a Nazi agency that did the actual looting [either stolen or paid for with paltry sums] of Jewish diamonds, both within and outside of Germany.(8) It was the opinion of the leading figure in the Diamant-Kontor, Ernst Cremer that the German diamond industry could only survive through the exploitation of confiscated Jewish jewelry.(9)

Yet, there was a difference of opinion within the U.S. Military Government of how to treat Viehmann. The CIC [Counter-Intelligence Corps of the U.S. European Theater of Operations] essentially cleared Viehmann(10), while, over the objections of the Finance Advisor and the FED [Foreign Exchange Depository where Viehmann's "property" was held], Viehmann was merely judged "a follower" and denazified on September 5, 1947.(11) In fact, one month after his denazification, Viehmann began receiving "export orders for the USA through the Military Government of Hesse amounting to about \$75,000."(12)

In February 1948, Viehmann initiated a claim for the return of his diamonds from the FED.(13) Surprisingly, Colonel Brey of the FED, changed his mind and stated that the evidence of Viehmann's leading role in Nazi activities was not adequate.(14) However, for unknown reasons, the FED released the Viehmann diamonds to Justizoberinspektor Ervin Lange and Justizoberinspektor Fritz Koon, designates to receive the items on behalf of Amtsgericht-Rinterlegungs in Frankfurt.(15)

Although the evidence against Viehmann was circumstantial, it cannot be discounted that the U.S. was interested in keeping him in business, because of his expertise, to help prop up the German economy. For Viehmann not to receive the diamonds in question from the FED even after his de-Nazification, leads one to believe that there was still a strong suspicion of odious wartime activities on his part.

(1) National Archives; RG 226; Entry 27; Box 1; Memo from Van der Stricht to Libert; October 9, 1942

(2) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; "Report on Diamant Kontor and Ernst Cremer"; n.d.

(3) National Archives; RG 226; Entry 16; Box 1595; "Safehaven Report"; June 30, 1945

(4) National Archives; RG 260; Entry: Finance Division; Box 50; File: Gold & Silver [Hungarian Restitution]; "Data Re S.S. Loot"; n.d.

(5) *ibid.*

(6) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; "Arrest Report"; August 24, 1945

(7) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; Memo from Bennett; May 26, 1948
National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; "Interrogation of Mr. Ernst Cremer" October 8, 1945

(8) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; "Interrogation of Mr. Ernst Cremer"; October 8, 1945
National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; "Report on Diamant Kontor and Ernst Cremer"; n.d.

(9) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; "Report on Diamant Kontor and Ernst Cremer"; n.d.

(10) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; Memo from Korpela; "Viehmann, Erich"; January 28, 1946

- (11) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; "The de-Nazification Board of Hanau Stadt and Land"; August 16, 1947
National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; Memo from Bennett; May 26, 1948
National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; Memo from Brey; "Release of Property"; December 15, 1947
- (12) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; Statement from Viehmann; n.d.
- (13) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; Letter from Viehmann to Ball; February 5, 1948
- (14) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; Memo from Brey; "Validity of Claim by Erich Viehmann, German national to diamonds and jewelry held by F.E.D. [Shipment 64]"; March 19, 1948
- (15) National Archives; RG 260; Entry: Finance Division; Box 75; File: Viehmann Valuables; Letter from Bennett to Chief, Foreign Exchange Depository; Oct. 20, 1948

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DEC. 1999

SECURITIES (GREG MURPHY)

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.³¹ General Ruling 5 decreed that all imported securities be screened to prove they were not looted.³² 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."³³

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

³⁰ NARA/CP; RG 260; Finance Division; Box 160; File 2/160-9; "Tabulation of Currencies Delivered Under Military Government Law 53"; no date

³¹ NARA/CP; 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

³² NARA/CP; RG 84; Entry 2109A - Brussels Embassy; Box 18; File #711.2; Telegram #532 from Byrnes to Marks; May 21, 1946

³³ NARA/CP; RG 131; Foreign Funds Control Subject Files; Box 388; File: Looted Securities; Telegram 1273; October 15, 1945

distribution could be made in the country receiving the securities.”³⁴

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, factory safes, 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.”³⁵ Many of these securities were stolen from concentration camp victims.³⁶ 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 Pyhm, 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;³⁷ the predecessor to HQ USFA [Headquarters, United States Forces Austria].

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

³⁴ NARA/CP; 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

³⁵ NARA/CP; RG 260; Finance Division; Box 50; File: Gold and Silver [Hungarian Restitution]; “Data Re S.S. Loot”

NARA/CP; RG 260; Property Division; Box 4; File: Bonds-Safekeeping; Letter from Col. Jefferson (Property Control Branch) to OMGUS (Land Property Control Chief, Land Greater Hesse); “Bonds Held for Safekeeping”; August 2, 1946

³⁶ NARA/CP; 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

³⁷ NARA/CP; RG 260; Finance Division; Box 284; File: Hungary - National Banks; May 14, 1945

26,105,200 worth,³⁸ a ten-fold increase in less than four months! In addition, Melmer deliveries of securities and postal stamps totaled RM 175,681.97.³⁹

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.”⁴⁰

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

³⁸ NARA/CP; RG 260; FED; Box 427; “Status of the Reichsbank.”

³⁹ NARA/CP; RG 260; FED; Box 427; File: Melmer Deliveries; “Recapitulation of Proceeds: Melmer Deliveries.”

Authorities shall direct.”⁴¹ 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.”⁴² 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.”⁴³ In other words, according 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.⁴⁴ 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

⁴⁰ Department of State Bulletin 21 [1943]

⁴¹ NARA/CP; 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.

⁴² NARA/CP; 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

⁴³ NARA/CP; 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.

NARA/CP; 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.

NARA/CP; 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.

⁴⁴ NARA/CP; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investment; Annex B,

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.⁴⁵

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."⁴⁶ 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. 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." 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." 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

GEPC/P[46]48, Allied Control Authority, Legal Directorate, Delivery of Foreign Securities in Germany, May 28, 1946

⁴⁵ National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; Cable WX-90450; June 7, 1946

⁴⁶ National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investment;

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.”⁴⁷ General Gailey summed up the U.S. position succinctly: “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.”⁴⁸ 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.” 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.”⁴⁹

Both Britain and the United States had renounced, at Potsdam, all claims to securities found in Bulgaria, Finland, Hungary, Romania, and the Soviet-controlled zone of eastern Austria.⁵⁰ The Soviet Union also renounced claims in all other countries.⁵¹ However, the Soviets, when holding German shares of businesses located elsewhere in

CORC/P[46]274, Allied Control Authority, Coordinating Committee, Delivery of Foreign Securities in Germany, August 22, 1946

⁴⁷ National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; DFIN/P[46]223, Allied Control Authority, Directorate of Finance, Disposition of Foreign Securities Uncovered in Germany.

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

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

⁵⁰ (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

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

Europe used those assets as reparations under the Potsdam decisions.⁵² 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.”⁵³ 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.⁵⁴

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 Austrian economy, contending that securities of the former Wertpapiersammelbank [a clearinghouse for depositing securities whose only participants were Viennese banks, largely Jewish-owned],⁵⁵ now the National Bank of Vienna, were shipped to Regensburg prior to the liberation of Vienna. Their presence, according to USFA, was therefore accidental.

⁵² (36) National Archives; RG 260; AG Decimal File; Box 95; File: German Assets; April 2, 1946

⁵³ (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

⁵⁴ (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

⁵⁵ (39) National Archives; RG 260; USACA Decimal Files; Box 10; File #102.1 - Financial Accounting -

OMGUS initially rejected this argument, explaining that there was no restitution policy concerning Austrian assets.⁵⁶ However, contrary to the wishes of the other three allies who considered all foreign securities held in Germany as vested under Control Council Law 5,⁵⁷ OMGUS changed its mind and indicated its willingness to release the securities to General Mark Clark in Austria.⁵⁸ According to the provisions of this law, the restitution of these vested foreign securities required Control Council approval “regardless of their location within Germany.”⁵⁹ 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,⁶⁰ but AGWAR stated that USFA “be invited to make examination hand audit in Germany of records and securities as they consider desirable.”⁶¹ In March 1947, however, OMGUS went ahead and shipped the securities to USFA in order to prepare an inventory, but ordered no disposition. USFA also pushed for restitution to Hungary of the securities found in Austria on the Hungarian Bank Train.⁶²

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

Currency Conversion; Cable CC-23473; March 8, 1946.

⁵⁶(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*

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

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

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

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

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

the government in question will no doubt take measures to protect the legitimate owner.”⁶³

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.”⁶⁴ 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 Stockholm.⁶⁵ 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.”⁶⁶ The invading Germans, in 1940, had required all Jewish securities to be deposited with Lippman, Rosenthal & Co. in Holland whereupon they would be seized and then sold by the German management or German banks.⁶⁷ At the end of the war, all the records concerning securities, fell into the hands of the Dutch Government.⁶⁸

⁶² NARA/CP; RG 84; Entry 2056 – POLAD, Vienna; Box 17; File #710; “Summary Report On Claims And Restitutions As of 31 Dec. 1947”; p. 14

⁶³ (47) National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; May 25, 1946

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

⁶⁵ (60) National Archives; RG 260; Finance Division; Box 160; Cable CC-1117; August 4, 1947

⁶⁶ (61) National Archives; RG 260; Finance Division; Box 160; Cable WX-87155; September 27, 1947

⁶⁷ NARA/CP; RG 84; Entry 2109A – Brussels Embassy; Box 17; File #711.2; Safehaven Report #3; “German Purchases & Seizure of Shares in Holland through Lippman Rosenthal”; August 10, 1945

⁶⁸ (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

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."⁶⁹

On April 14, 1948, OMGUS unveiled a 4-phase plan to dispose of securities:⁷⁰

- 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

⁶⁹ (64) National Archives; RG 260; External Assets; Box 677; File: Restitutions; Memorandum No. 10, "Restitution of Securities"; October 3, 1947

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

cannot agree to maintain such a considerable staff for an indeterminate period.”⁷¹

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.”⁷²

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.”⁷³

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.

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

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

⁷³ (85) National Archives; AG Decimal File; Box 511; File #602.3 - Restitutions; Cable CC-5364; July 31,

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.⁷⁴ 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.⁷⁵ “Aryanization” in the form of a purchase and sale is not by itself sufficient to prove removal by force or duress.⁷⁶ 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.⁷⁷ 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 which the aryanization occurred.⁷⁸

Other reasons for rejecting claims included the absence of certificate numbers; when securities never left occupied country or were never in the occupied country;⁷⁹ lack of identifiability as it follows from the nature of “Girosammeldepot” that there is no title

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⁷⁴ (86) National Archives; RG 260; Economics Division; Box 353; Czech Claims

⁷⁵ (89) National Archives; RG 260; Economics Division; Boxes 353-354; File: Czech Claims
National Archives; RG 260; Economics Division; Box 360; File: Dutch Claims

⁷⁶ (90) National Archives; RG 260; Economics Division; Box 361; Austrian Claims

⁷⁷ (91) National Archives; RG 260; Economics Division; Box 353; Czech Claims

⁷⁸ (92) National Archives; RG 260; Economics Division; Box 351; French Claims

to specific certificates;⁸⁰ 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;⁸¹ lack of description of the securities in question;⁸² mere fact of abolition of foreign exchange restrictions between occupier and occupied nation;⁸³ and when securities were voluntarily sent to Germany.⁸⁴ Denied government claims remained on deposit with the Landeszentralbank under Law 53 awaiting final disposition.⁸⁵

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.⁸⁶

⁷⁹ (93) National Archives; RG 260; Economics Division; Box 353; Czech Claims

⁸⁰ (94) National Archives; RG 260; Economics Division; Box 354; Czech Claims

⁸¹ (95) National Archives; RG 260; Economics Division; Box 356; Czech Claims

⁸² (96) National Archives; RG 260; Economics Division; Box 359; Dutch Claims

⁸³ (97) National Archives; RG 260; Economics Division; Box 358; Dutch Claims

⁸⁴ (98) National Archives; RG 260; Economics Division; Box 355; Czech Claims

⁸⁵ (99) National Archives; RG 260; Economics Division; Box 360; Dutch Claims

⁸⁶ (100) National Archives; RG 260; Economics Division; Box 359; Dutch Claims

However, government restitution took precedence over any individual claims.⁸⁷

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."⁸⁸

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.⁸⁹

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,⁹⁰ approximately worth \$64 million U.S. dollars. Again there was no breakdown of looted securities.

Restitution to IGCR

⁸⁷ (101) National Archives; RG 260; Economics Division; Box 348; French Claims

⁸⁸ (102) National Archives; RG 260; External Assets; Box 650; File: Policy - Germany External Assets; May 25, 1946

⁸⁹ (103) National Archives; RG 260; Economics Division; Box 348; French Claims

⁹⁰ (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"

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.”⁹¹ On July 19, 1946, AGWAR instructed OMGUS that the purchase of securities “for fair value in good faith should not be” a defense against a restitution claim based upon duress or forced transfer.⁹²

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;
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- 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.⁹³

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.⁹⁴

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)

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

⁹² (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

⁹³ (56) National Archives; RG 260; Finance; Box 161; File: Disposition of Valuables; “Disposition of Valuables”; January 28, 1947

⁹⁴ (56) National Archives; RG 260; Finance; Box 161; File: Disposition of Valuables; “Disposition of

the United States position taken in Control Council which has been contrary to the disposal principle.”⁹⁵

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 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.”⁹⁶ The Germans used bearer securities to a massive degree in order to cloak actual ownership.⁹⁷

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.”⁹⁸ 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

Valuables”; January 28, 1947

⁹⁵ (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

⁹⁶ (65) National Archives; RG 260; Reparations and Restitution Branch; Box 27; File: Misc. Restitution; Cable CC-7533

⁹⁷ (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

⁹⁸ (67) National Archives; RG 260; Restitutions and Reparations; Box 21; File: Silver Securities; April 25, 1947

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.⁹⁹

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.¹⁰⁰

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 December 1944, 31 December 1945, 31 March 1946, whichever is

⁹⁹ (68) National Archives; RG 260; FED; Box 464; File: Appraisal, Securities; "Discussion of Suggested Plan for Valuation of Securities"

¹⁰⁰ (68) National Archives; RG 260; FED; Box 464; File: Appraisal, Securities; "Discussion of Suggested

lower. Whenever a quotation is not available, valuation should be obtained by competent authorities in the country concerned.¹⁰¹

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.”¹⁰²

On July 1, 1946, the FED reported “about 500 bags of assorted securities” in their possession.¹⁰³ “The largest class of securities in volume seems to be the Columbia [French valued at \$2 million and eventually delivered on October 29, 1948]¹⁰⁴ and Concordia Petroleum Corp. shares [also French and valued at \$7 million].¹⁰⁵ Belgium also made a claim for looted Concordia shares, with Belgian government restitution official, Gabriel Duquesne, stating that if the shares were restituted to his country, he would “first offer them for sale to American oil interests.”¹⁰⁶ The FED said it would take six weeks to prepare an inventory for these securities.¹⁰⁷ On January 28, 1947, the FED

Plan for Valuation of Securities”

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

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

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

¹⁰⁴ (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”

¹⁰⁵ (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”

¹⁰⁶ NARA/CP; RG 84; Entry 2109A – Brussels Embassy; Box 14; File #711.2; Telegram #413 from Kirk to Secretary of State; October 10, 1946

¹⁰⁷ (76) National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; “Status Report

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."¹⁰⁸ Yet, when the British made an 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."¹⁰⁹

One group of securities that was inventoried were the securities found in the Orphans 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 \$760,000.¹¹⁰

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

on Assets Held in Foreign Exchange Depository"

¹⁰⁸ (77) National Archives; RG 260; Finance; Box 161; File: Disposition of Valuables; "Disposition of Valuables"; January 28, 1947

¹⁰⁹ (78) National Archives; RG 260; Property Division; Box 21; File: Silver Securities; "Hungarian Securities of J.&P. Coats, Ltd."

securities had been restituted to various nations from the U.S. Zone in Germany.¹¹¹

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.¹¹²

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.¹¹³

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

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

¹¹¹ (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

¹¹² (120) National Archives; RG 260; Economics Division; Box 358; Dutch Claims

¹¹³ (121) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; "External Restitution"

Italy	1
Luxembourg	3
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.¹¹⁴

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.”¹¹⁵ Czech claims included securities of Jewish-owned plants that were aryanized and the securities removed to Germany.¹¹⁶

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.¹¹⁷ Within OMGUS, the responsibility for restitution of securities was transferred from the Reparations and Restitution Section to the Finance Division on April 11, 1949.¹¹⁸ Security restitutions would continue through 1951.¹¹⁹

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

¹¹⁴ (123) National Archives; RG 260; Finance; Box 130; File: Claims-Restitution; August 7, 1948

¹¹⁵ (123) National Archives; RG 260; Finance; Box 130; File: Claims-Restitution; August 7, 1948

¹¹⁶ (126) National Archives; RG 260; Economics Division; Box 353; Czech Claims; January 31, 1948

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

¹¹⁸ (128) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; “Unfinished Business in Reparations and Restitution Program”

¹¹⁹ (129) National Archives; RG 260; Economics Division; Box 355 File: Czech Claims; “Ludwig Meyerheim”

restitution [to the governments of former Nazi-occupied countries] was September 1, 1939, the start of World War II. The key date for ownership of securities with regard to internal restitution [to German individuals] was January 30, 1933, the beginning of the Hitler dictatorship in Germany.¹²⁰

¹²⁰ (118) National Archives; Finance; Box 130; File: Claims-Restitution; "Draft Press Release"; July 17,

PRESIDENT'S COMMISSION ON HOLOCAUST ASSETS

Restitution of Securities

October 27, 1999

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.(1) 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."(2)

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."(3) 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."(4)

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."(5) Many of these securities were stolen from concentration camp victims.(6) 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."(7) 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(8), the predecessor to HQ USFA [Headquarters, United States Forces Austria]. It is unknown at this time what eventually became of these assets.

(1)

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.(9) On April 20, 1945, they reported having RM 26,105,200 worth,(10) a ten-fold increase in less than four months! In addition, Melmer deliveries of securities and postal stamps totaled RM 175,681.97(11)

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.”(12) 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.(13)

By January 31, 1946, OMGUS had taken “control” of 404 separate securities worth 28,636,366 Reichsmarks.(14) OMGUS figured they had possession of almost 2.3 billion Reichsmarks worth of property.(15) Of this number, almost 60 million Reichsmarks worth of property was looted.(16) There was no breakdown for looted securities.

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.”(17) 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

(2)

53.”(18) 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."(19) In other words, according 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.(20)

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.(21) 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.(22) The U.S. military authorities in Germany and Austria would also prepare inventories in order to decide any claims.(23)

By August 31, 1946, OMGUS had 4,566 units of securities, worth approximately 734 million Reichsmarks.(24) Of the 10.5 billion Reichsmarks worth of property under U.S. control in Germany, 664 million Reichsmarks worth was looted.(25) Again there was no breakdown of looted securities.

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."(26) 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

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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.”(30) General Gailey summed up the U.S. position succinctly: “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.”(31) 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.”(32) 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.”(33)

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.(34) The Soviet Union renounced claims in all other countries.(35) However, the Soviets, when holding German shares of businesses located elsewhere in Europe used those assets as reparations under the Potsdam decisions.(36) 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.”(37) 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.(38)

The question of restituting Austrian securities also arose in February 1946. The headquarters of U.S. Forces in

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Austria [USFA] was anxious to release the securities, which they considered to be of vital importance,” to the Austrians, contending that securities of the former Wertpapiersammelbank [a clearinghouse for depositing securities whose only participants were Viennese banks](39), now the National Bank of Vienna, were shipped to Regensburg prior to the liberation of Vienna. Their presence, according to USFA, was therefore accidental.(40)

OMGUS initially rejected this argument, explaining that there was no restitution policy concerning Austrian assets.(41) 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(42), OMGUS changed its mind and indicated its willingness to release the securities to General Mark Clark in Austria.(43) According to the provisions of this law, the restitution of these vested foreign securities required Control Council approval “regardless of their location within Germany.”(44) 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(45), but AGWAR stated that USFA “be invited to make examination hand audit in Germany of records and securities as they consider desirable.”(46) 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.”(47)

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.”(48) 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...”(49) 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.(50) In addition to the \$25 million “sum the inter-Governmental committee on refugees or its successor organization is hereby

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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.”(51) 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

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made available to the Inter-Governmental Committee on Refugees or its successor organization for distribution to appropriate public and private field organizations.(52) The five nations then called upon the neutral countries to assist in collecting, identifying, and distributing these assets.(53) 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."(54)

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The JCS envisioned a "security pool" where all securities found in Germany would be deposited.(57) 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.(58)

Quadripartite discussions concerning the restitution of securities [as well as currencies], got bogged down

(6)
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."(59) 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 Stockholm.(60) 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.”(61). 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.(62) At the end of the war, all the records concerning securities, fell into the hands of the Dutch Government.(63)

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.”(64)

Identifying Ownership's

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 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.”(65) The Germans used bearer securities to a massive degree in order to cloak actual ownership.(66)

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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.(68)

Valuation costs

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.(69)

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 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.(70)

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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."(71) With all other securities, "first convert valuation into U.S. dollars at official rate."(72)

On July 1, 1946, the FED reported "about 500 bags of assorted securities" in their possession.(73) "The largest class of securities in volume seems to be the Columbia [French valued at \$2 million and eventually delivered on

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October 29, 1948](74) and Concordia Petroleum Corp. shares [also French and valued at \$7 million].(75) The FED said it would take six weeks to prepare an inventory for these securities.(76) 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."(77) 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."(78)

One group of securities that was inventoried were the securities found in the Orphans 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.(79) OMGUS valued the securities from \$200 to \$760,000.(80)

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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."(81)

On April 14, 1948, OMGUS unveiled a 4-phase plan to dispose of securities:(82)

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.

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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."(83)

Stopping

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."(84)

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."(85)

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!(86) 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.(87)

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.(88) 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.(89) "Aryanization" in

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the form of a purchase and sale is not by itself sufficient to prove removal by force or duress.(90) 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.(91) 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 which the aryanization occurred.(92)

Other reasons for rejecting claims included the absence of certificate numbers; when securities never left occupied country or were never in the occupied country(93); lack of identifiability as it follows from the nature of "Girosammeldepot" that there is no title to specific certificates(94); 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(95); lack of description of the securities in

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question(96); mere fact of abolition of foreign exchange restrictions between occupier and occupied nation(97); and when securities were voluntarily sent to Germany(98). Denied government claims remained on deposit with the Landeszentralbank under Law 53 awaiting final disposition.(99)

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.(100) However, government restitution took precedence over any individual claims.(101) 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."(102) 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

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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.(103)

When the Dutch Government made a claim in 1947 for certain securities looted by the Germans during the occupation, it turned out these securities had "recently been sold" in the United States!(104) The U.S. Treasury Department informed the Dutch that "the persons who disposed of these securities in the United States are presently under intensive investigation by this Department and we have been in consultation with appropriate officials of the Department of Justice with a view to their prosecution in a criminal case. Such a prosecution would be based on the violation of General Ruling No. 5..."(105) To show guilt, however, according to the Treasury

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Department, it would be necessary to prove:

- a) that the securities were outside the U.S. subsequent to the issuance of General Ruling No.5;
- b) that the defendants knowingly imported or otherwise dealt with the securities; and
- c) that the securities were not turned over to a Federal Reserve Bank for examination in accordance with the provisions of General Ruling 5.(106)

While confident about proving b) and c) above, Treasury was less hopeful concerning a), citing the difficulty of producing witnesses.(107) The outcome of the case is not known at this time.

Often, however, there were leaks in bringing looted securities into the United States. For instance, when it was discovered by American authorities that certain securities imported from London had been reported as looted by the Dutch Government, the U.S. declined to take action "since the importation of securities from Great Britain does not constitute a violation of our importation controls..."(108) In fact, representatives of Foreign Funds Control advised Holland that since the brokerage companies involved in this case were reputable firms, the securities in question "may have been" originally "exported from the Netherlands with the proper permit and, if such is the case, we should not be called upon to trace and report such securities."(109)

Both the State Department and Foreign Funds Control were leery of some of the Dutch claims regarding securities.

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It seems that the Dutch were claiming securities as looted when they "had been purchased by the occupying Germans with guilder which they had obtained as a tax on the Dutch economy or with reichsmarks."(110) The American complaint was that "the Dutch do not in any way give any consideration to the holder from whom the occupying Germans had purchased the securities on the ground that such holders had already been paid."(111) The U.S. also was critical of Dutch refusal to factor in their claims securities looted from persons subsequently killed without leaving any heirs.(112)

On July 25, 1947, an amendment to General Ruling 5 prohibited the importation into the United States of scheduled [thought to be looted] securities.(113) However, the amendment allowed the importation, without certification, of non-scheduled securities.(114)

The U.S. considered all Volksbank [small savings banks within Germany] removals of securities as removals under duress and therefore subject to governmental restitution.(115) Certificates that were purchased after the

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London Declaration on January 5, 1943 were to be restituted to the government of the affected occupied country. Also restituted to governments were looted Jewish-owned securities(116) that were now presumed to be heirless. Property [including securities] which was acquired from German-occupied countries is subject to external restitution in view of the fact that such occupation was used for the economic exploitation of those countries.(117)

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.(118) 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.(119)

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

*Law 53
Securities*

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and manner of acquisition and without the recipient government being required to file a claim.(120)

The U.S. Military Government in Germany [OMGUS] established a deadline of December 31, 1948 for the filing of claims(121) 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:

<u>Countries</u>	<u># of Claims Filed(122)</u>
Austria	69
Belgium	162
Czechoslovakia	331
France	76
Italy	1
Luxembourg	3
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."(123) 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.(124)

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."(125) Czech claims included securities of Jewish-owned plants that were aryanized and the securities removed to Germany.(126)

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.(127) Within OMGUS, the responsibility for restitution of securities was transferred from the Reparations and Restitution Section to the Finance Division on April 11, 1949.(128) Security restitutions would continue through 1951.(129)

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].(130) The FED estimated \$14 million worth of securities had been restituted to various nations from the U.S. Zone in Germany.(131)

Valuation
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Two American citizens, Emil and Annie Benedict, filed claims with OMGUS in May 1948 for securities that were looted by the Germans.(132) Unfortunately, the U.S. had already mistakenly restituted them to Czechoslovakia.(133) Because the Czechoslovakian government had recently become Communist, there was some apprehension about their eventual return, but the Czechs gave the securities back to OMGUS in January 1949,(134) two months after being asked.

In fact, naturalized U.S. citizens, formerly European refugees, were making claims for securities as late as 1949. Like the Benedict case, these securities were already restituted to Czechoslovakia. Unlike that case when those shares were sent accidentally, these securities were forwarded to the Czechs because the claims were submitted late. However, that did not deter the U.S. from making an effort to re-acquire them. The Czechs merely ignored the requests and the Americans were informed that "in view of present circumstances and past experience, it must be assumed that any further direct efforts" by the Property Division of the Office of Economic Affairs "would also be without result.(135)

In the case of a German Jew, Ludwig Meyerheim, asking for restitution of his securities, OMGUS handed him a

split decision. In December 1950, his claim was rejected because the Czech securities in question were purchased in 1943 and 1944, following the London Declaration, and therefore, did not acquire good title.(136) However, when Meyerheim, one year later, made a claim for Austrian shares, "as a victim of Nazi persecution" within the meaning of the Allied High Commission Press Release of March 16, 1950, the shares and bonds were released to him, since he was "not subject" to Control Council Law 5.(137)

The evidence is clear from the documents that the United States was anxious to begin restitution of the looted securities "at the earliest practicable date to the government of the country" victimized.(138) There was a clear preference on the part of U.S. military officials to deal with governments rather than individuals, although, in the early 1950's, there was an effort to restitute securities to Holocaust victims. Even as late as 1951, however, the question of the ultimate disposition of securities classified as heirless assets, needed to be resolved.

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(3) National Archives; RG 226; Entry 27; Box 2

(4) *ibid.*

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(92) National Archives; RG 260; Economics Division; Box 351; French Claims

(93) National Archives; RG 260; Economics Division; Box 353; Czech Claims

(94) National Archives; RG 260; Economics Division; Box 354; Czech Claims

(95) National Archives; RG 260; Economics Division; Box 356; Czech Claims

(96) National Archives; RG 260; Economics Division; Box 359; Dutch Claims

(97) National Archives; RG 260; Economics Division; Box 358; Dutch Claims

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(131) *ibid.*

(132) National Archives; RG 260; Property Division; Box 24; File: Benedict Czech Securities

(133) National Archives; RG 260; AG Decimal File; Box 607; File #602.3 - Restitution; "Cable CC-6723"

(134) National Archives; RG 60; Reparations and Restitution Branch; Box 27; File: Misc. Restitution; "Cable CC-7533"

(135) National Archives; Reparations and Restitution; Box 22; File: Freund/Feigl Restitution; May 31, 1951

(136) National Archives; Economics Division; Box 355; File: Czech Claims; December 28, 1950

(137) National Archives; Economics Division; Box 355; File: Czech Claims; December 11, 1951

(138) National Archives; RG 260; Reparations and Restitutions; Box 22; Annex A to DFIN/BC/Memo[47]2, Allied Control Authority, Finance Directorate, Banking Committee, Restitution of Looted Securities; December 6, 1946

PRESIDENT'S COMMISSION ON HOLOCAUST ASSETS

Restitution of Securities

October 27, 1999

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.(1) 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."(2)

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."(3) 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."(4)

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."(5) Many of these securities were stolen from concentration camp victims.(6) The Army transferred these assets to a central American collection center in Frankfurt, the Foreign Exchange Depository where they would await disposition.

*FACTORY
SAVES*

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."(7) 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(8), the predecessor to HQ USFA [Headquarters, United States Forces Austria]. It is unknown at this time what eventually became of these assets.

(1)

*JEWELRY
Jewelry were among the many...
PERSONAL, German*

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.(9) On April 20, 1945, they reported having RM 26,105,200 worth,(10) a ten-fold increase in less than four months! In addition, Melmer deliveries of securities and postal stamps totaled RM 175,681.97(11)

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."(12) 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.(13)

By January 31, 1946, OMGUS had taken "control" of 404 separate securities worth 28,636,366 Reichsmarks.(14) OMGUS figured they had possession of almost 2.3 billion Reichsmarks worth of property.(15) Of this number, almost 60 million Reichsmarks worth of property was looted.(16) There was no breakdown for looted securities.

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."(17) 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.”(18) 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.”(19) In other words, according 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.(20)

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.(21) 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.(22) The U.S. military authorities in Germany and Austria would also prepare inventories in order to decide any claims.(23)

By August 31, 1946, OMGUS had 4,566 units of securities, worth approximately 734 million Reichsmarks.(24) Of the 10.5 billion Reichsmarks worth of property under U.S. control in Germany, 664 million Reichsmarks worth was looted.(25) Again there was no breakdown of looted securities.

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.”(26) 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.”(30) General Gailey summed up the U.S. position succinctly: “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.”(31) 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.”(32) 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.”(33)

Both Britain and the United States ^{HAD} renounced all claims ^{AT POTSDAM} to securities found in Bulgaria, Finland, Hungary, Romania, and the Soviet-controlled zone of eastern Austria. (34) The Soviet Union ^{ALSO} renounced claims in all other countries. (35) However, the Soviets, when holding German shares of businesses located elsewhere in Europe used those assets as reparations under the Potsdam decisions. (36) 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.”(37) 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. (38)

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 securities of the former Wertpapiersammelbank [a clearinghouse for depositing securities whose only participants were Viennese banks](39), now the National Bank of Vienna, were shipped to Regensburg prior to the liberation of Vienna. Their presence, according to USFA, was therefore accidental.(40) *Economy* OMGUS initially rejected this argument, explaining that there was no restitution policy concerning Austrian assets.(41) 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(42), OMGUS changed its mind and indicated its willingness to release the securities to General Mark Clark in Austria.(43) According to the provisions of this law, the restitution of these vested foreign securities required Control Council approval "regardless of their location within Germany."(44) 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(45), but AGWAR stated that USFA "be invited to make examination hand audit in Germany of records and securities as they consider desirable."(46) 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."(47)

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."(48) 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..."(49) 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.(50) 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."(51) 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.(52) The five nations then called upon the neutral countries to assist in collecting, identifying, and distributing these assets.(53) 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."(54)

On July 19, 1946, AGWAR instructed OMGUS that the purchase of securities "for fair value in good faith should not be" a defense against a restitution claim based upon duress or forced transfer.(55)

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.(56)

The JCS envisioned a "security pool" where all securities found in Germany would be deposited.(57) 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.(58)

Quadripartite 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."(59) 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 Stockholm.(60) 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."(61) The invading Germans, in 1940, had required all Jewish securities to be deposited with Lippman, Rosenthal & Co. in Holland.^{WHEN THEY SEIZED THE SECURITIES FROM THE LIPPMAN, ROSENTHAL & CO. BANK IN AMSTERDAM} (62) At the end of the war, all the records concerning securities, fell into the hands of the Dutch Government.^{THE DUTCH} (63) *COMMON BANKS SUBSEQUENTLY SOLD THEM.*

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."(64)

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 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."(65) The Germans used bearer securities to a massive degree in order to cloak actual ownership.(66)

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."(67) 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.

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.(68)

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.(69)

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 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.(70)

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."(71) With all other securities, "first convert valuation into U.S. dollars at official rate."(72)

On July 1, 1946, the FED reported "about 500 bags of assorted securities" in their possession.(73) "The largest class of securities in volume seems to be the Columbia [French valued at \$2 million and eventually delivered on

October 29, 1948](74) and Concordia Petroleum Corp. shares [also French and valued at \$7 million].(75) The FED said it would take six weeks to prepare an inventory for these securities.(76) 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."(77) 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."(78)

One group of securities that was inventoried were the securities found in the Orphans 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.(79) OMGUS valued the securities from \$200 to \$760,000.(80)

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."(81)

On April 14, 1948, OMGUS unveiled a 4-phase plan to dispose of securities:(82)

- 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.

75A: 1084; 2104 - Brussels; BR
14. 1. 1948 # 2112; TEL 413
FA KIRK TO SEC. STATE; 10-10-48

(9)

Belgium also made a claim for Concordia shares, w/ Belgian Govt official casual request stating that if restituted to his country, he would first offer them for sale to American investors.

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."(83)

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."(84)

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."(85)

OMGUS denied claims it felt were essentially commercial transactions. The subscription to or purchase of new issues during occupation will be 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!(86) 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.(87)

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.(88) 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.(89) "Aryanization" in

the form of a purchase and sale is not by itself sufficient to prove removal by force or duress.(90) 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.(91) 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 which the aryazation occurred.(92)

Other reasons for rejecting claims included the absence of certificate numbers; when securities never left occupied country or were never in the occupied country(93); lack of identifiability as it follows from the nature of "Girosammeldepot" that there is no title to specific certificates(94); 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(95); lack of description of the securities in question(96); mere fact of abolition of foreign exchange restrictions between occupier and occupied nation(97); and when securities were voluntarily sent to Germany(98). Denied government claims remained on deposit with the Landeszentralbank under Law 53 awaiting final disposition.(99)

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.(100) However, government restitution took precedence over any individual claims.(101) 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."(102) 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.(103)

When the Dutch Government made a claim in 1947 for certain securities looted by the Germans during the occupation, it turned out these securities had "recently been sold" in the United States!(104) The U.S. Treasury Department informed the Dutch that "the persons who disposed of these securities in the United States are presently under intensive investigation by this Department and we have been in consultation with appropriate officials of the Department of Justice with a view to their prosecution in a criminal case. Such a prosecution would be based on the violation of General Ruling No. 5..."(105) To show guilt, however, according to the Treasury Department, it would be necessary to prove:

- a) that the securities were outside the U.S. subsequent to the issuance of General Ruling No.5;
- b) that the defendants knowingly imported or otherwise dealt with the securities; and
- c) that the securities were not turned over to a Federal Reserve Bank for examination in accordance with the provisions of General Ruling 5.(106)

While confident about proving b) and c) above, Treasury was less hopeful concerning a), citing the difficulty of producing witnesses.(107) The outcome of the case is not known at this time.

Often, however, there were leaks in bringing looted securities into the United States. For instance, when it was discovered by American authorities that certain securities imported from London had been reported as looted by the Dutch Government, the U.S. declined to take action "since the importation of securities from Great Britain does not constitute a violation of our importation controls..."(108) In fact, representatives of Foreign Funds Control advised Holland that since the brokerage companies involved in this case were reputable firms, the securities in question "may have been" originally "exported from the Netherlands with the proper permit and, if such is the case, we should not be called upon to trace and report such securities."(109)

On July 25, 1947, an amendment to General Ruling 5 prohibited the importation into the United States of scheduled [thought to be looted] securities.(110) However, the amendment allowed the importation, without

certification, of non-scheduled securities.(111)

The U.S. considered all Volksbank [small savings banks within Germany] removals of securities as removals under duress and therefore subject to governmental restitution.(112) Certificates that were purchased after the London Declaration on January 5, 1943 were to be restituted to the government of the affected occupied country. Also restituted to governments were looted Jewish-owned securities(113) that were now presumed to be heirless. Property [including securities] which was acquired from German-occupied countries is subject to external restitution in view of the fact that such occupation was used for the economic exploitation of those countries.(114)

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.(115) 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.(116)

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.(117)

The U.S. Military Government in Germany [OMGUS] established a deadline of December 31, 1948 for the filing of claims(118) 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:

<u>Countries</u>	<u># of Claims Filed(119)</u>
Austria	69
Belgium	162
Czechoslovakia	331
France	76
Italy	1
Luxembourg	3
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."(120) 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.(122)

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."(123) Czech claims included securities of Jewish-owned plants that were aryanized and the securities removed to Germany.(124)

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.(125) Within OMGUS, the responsibility for restitution of securities was transferred from the Reparations and Restitution Section to the Finance Division on April 11, 1949.(126) Security restitutions would continue through 1951.(127)

On March ~~16~~¹⁰, 1949, the FED drew up a list of securities to be restituted to the nations they were looted from. Securities were mostly valued at just \$1!(128) None [and it is possible these were bundled] were valued at more than \$1,277.(129)

Two American citizens, Emil and Annie Benedict, filed claims with OMGUS in May 1948 for securities that were looted by the Germans.(130) Unfortunately, the U.S. had already mistakenly restituted them to Czechoslovakia.(131) Because the Czechoslovakian government had recently become Communist, there was some apprehension about their eventual return, but the Czechs gave the securities back to OMGUS in January 1949,(132) two months after being asked.

In fact, naturalized U.S. citizens, formerly European refugees, were making claims for securities as late as 1949. Like the Benedict case, these securities were already restituted to Czechoslovakia. Unlike that case when those shares were sent accidentally, these securities were forwarded to the Czechs because the claims were submitted late. However, that did not deter the U.S. from making an effort to re-acquire them. The Czechs merely ignored the requests and the Americans were informed that "in view of present circumstances and past experience, it must be

assumed that any further direct efforts" by the Property Division of the Office of Economic Affairs "would also be without result.(133)

In the case of a German Jew, Ludwig Meyerheim, asking for restitution of his securities, OMGUS handed him a split decision. In December 1950, his claim was rejected because the Czech securities in question were purchased in 1943 and 1944, following the London Declaration, and therefore, did not acquire good title.(134) However, when Meyerheim, one year later, made a claim for Austrian shares, "as a victim of Nazi persecution" within the meaning of the Allied High Commission Press Release of March 16, 1950, the shares and bonds were released to him, since he was "not subject" to Control Council Law 5.(135)

The evidence is clear from the documents that the United States was anxious to begin restitution of the looted securities "at the earliest practicable date to the government of the country" victimized.(136) There was a clear preference on the part of U.S. military officials to deal with governments rather than individuals, although, in the early 1950's, there was an effort to restitute securities to Holocaust victims. Even as late as 1951, however, the question of the ultimate disposition of securities classified as heirless assets, needed to be resolved.

L.M.M. Ryans (Sec State) TO MARKS (MOTSON); 5-21-44

(1) 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 ✓

NOTA TOP; 1084; G. 7109A - BRUSSELS EMBASSY; BO R 18; FILE # 711. 2
(2) National Archives; RG 131; Foreign Funds Control Subject Files; Box 388; File: Looted Securities; Telegram 1273; October 15, 1945 ✓

REPARATION MEMO-29
"PART TWO: RECOMMENDATIONS WITH RESPECT TO A FINAL SETTLEMENT OF GERMAN REPARATIONS"
5-31-44
(3) National Archives; RG 226; Entry 27; Box 2 ✓

(4) *ibid.* ✓

(5) National Archives; RG 260; Finance Division; Box 50; File: Gold and Silver [Hungarian Restitution]; "Data Re S.S. Loot" ✓

NOTA TOP; 1084; G. 7109A - BRUSSELS EMBASSY; BO R 18; FILE # 711. 2
(6) 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 ✓

(7) National Archives; RG 260; Finance Division; Box 284; File: Hungary - National Banks; May 14, 1945 ✓

(8) *ibid.* ✓

(9) National Archives; RG 260; FED; Box 427; "Status of the Reichsbank" ✓ *[NOT IN 104646]*

(10) *ibid.* ✓

NOT FOUND CONT.
COL. JEFFERSON
and
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OMUS,
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Chief,
TO SEC
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MARK
10580

send part of work packet to MARK tomorrow P.M.

CITEs FROM 4 TO

4123

(11) National Archives; RG 260; FED; Box 427; File: Melmer Deliveries; "Recapitulation of Proceeds: Melmer Deliveries" *[Encl. 1940-44]* ✓ *no base*

* (12) Department of State Bulletin 21 [1943] ✓

* (13) *ibid.* ✓

(14) National Archives; RG 46; OP-58 - Military Government in Germany; Box 1001; File: Monthly Reports of Military Government, February 1946; "Finance and Property Control" ✓

(15) *ibid.* ✓

(16) *ibid.* ✓

* (17) 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 ✓

* (18) 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 ✓

* (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 ✓

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 ✓

* (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 ✓

* (21) National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; Cable WX-90450; June 7, 1946 ✓

* (22) *ibid.* ✓

* (23) *ibid.* ✓

(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" ✓

(25) *ibid.* ✓

* (26) 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 ✓

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Also report found

* (27) National Archives; RG 260; U.S. Element, ACC; Box 42; File: Foreign Securities - Investments; DFIN/P[46]223, Allied Control Authority, Directorate of Finance, Disposition of Foreign Securities Uncovered in Germany *12-11-46* ✓

* (28) *ibid.* ✓

* (29) *ibid.* ✓

* (30) *ibid.* ✓

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

* (32) 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 ✓

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

(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 ✓

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

(36) National Archives; RG 260; AG Decimal File; Box 95; File: German Assets; April 2, 1946 ✓

(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 ✓

(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 ✓

* (39) National Archives; RG 260; USACA Decimal Files; Box 10; File #102.1 - Financial Accounting - Currency Conversion; Cable CC-23473; March 8, 1946 ✓ *MANA*

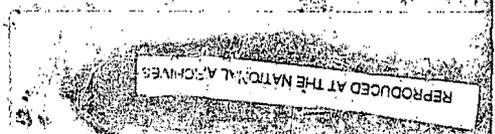
* (40) National Archives; RG 260; USACA Decimal Files; Box 10; File #102.1 - Financial Accounting - Currency Conversion; Cable CC-22509; February 2, 1946 ✓

* (41) *ibid.*

* (42) National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; Cable WX-90450; June 7, 1946 ✓

* (43) National Archives; RG 260; USACA Decimal Files; Box 10; File: Financial Accounting; Currency Conversion; Cable MC IN 22807; March 17, 1946 ✓ *MANA*

- * (44) National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; Cable WX-90450; June 7, 1946 ✓
- * (45) National Archives; RG 260; External Assets; Box 649; File: GEPC Policy; Cable WX-81819; March 24, 1946 ✓
- * (46) National Archives; RG 260; External Assets; Box 649; File: GEPC Policy; Cable WX-92431; June 26, 1946 ✓
- * (47) National Archives; RG 260; External Assets; Box 650; File: Policy - German External Assets; May 25, 1946 ✓
- * (48) National Archives; RG 260; Finance Division; Box 50; File: Gold and Silver [Hungarian Restitution]; Telegram 228; June 15, 1946 ✓
- * (49) *ibid.* ✓
- * (50) *ibid.* ✓
- * (51) *ibid.* ✓
- * (52) *ibid.* ✓
- * (53) *ibid.* ✓
- * (54) *ibid.* ✓
- * (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 ✓
- (56) National Archives; RG 260; Finance; Box 161; File: Disposition of Valuables; "Disposition of Valuables"; January 28, 1947 ✓
- * (57) *ibid.* ✓
- * (58) *ibid.* ✓
- (59) National Archives; RG 260; Finance Division; Box 160; File: Authorizations for Assets Released by FED; ; Cable WX-96654; April 23, 1947 ✓
- (60) National Archives; RG 260; Finance Division; Box 160; Cable CC-11117; August 4, 1947 ✓; *F. R. CURRENCIES; CURRENCY RESTITUTION*
- (61) National Archives; RG 260; Finance Division; Box 160; Cable WX-87155; September 27, 1947 ✓ *11*
- (62) National Archives; RG 131; Foreign Funds Subject Files; Box 404; File: Securities - Caveat List; March 11, 1947 ✓
- (63) *ibid.* ✓ *WARPLEP 2684; E. 21094 - BRUSSELS EMBASSY; BOX 17; FILE # 7116*
SARFHAVEN REPORT NO. 3; "GEM AND PURCHASES OF SEIZURES OF SHARES IN HOLLAND THROUGH LIMMAN ROSENTHAL"
- * (64) National Archives; RG 260; External Assets; Box 677; File: Restitutions; Memorandum No. 10, "Restitution of Securities"; October 3, 1947 ✓
- * (65) National Archives; RG 260; Reparations and Restitution Branch; Box 27; File: Misc. Restitution; Cable CC-7533 ✓ *Equity; not found Jan 24, 1949*



(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 ✓

(67) National Archives; RG 260; Restitutions and Reparations; Box 21; File: Silver Securities; April 25, 1947 ✓

(68) National Archives; RG 260; FED; Box 464; File: Appraisal, Securities; "Discussion of Suggested Plan for Valuation of Securities" 4-30-46 ✓

(69) *ibid.* ✓

(70) *ibid.* ✓

(71) *ibid.* ✓

(72) *ibid.* ✓

(73) National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; "Status Report on Assets Held in Foreign Exchange Depository" 7-1-46 ✓

(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"; March 10, 1949 ✓
National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; "Status Report on Assets Held in Foreign Exchange Depository" 7-1-46 ✓

(75) National Archives; RG 260; FED; Box 423; "Request for Evaluation of Property Restituted from FED"; March 10, 1949 ✓
National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; "Status Report on Assets Held in Foreign Exchange Depository" 7-1-46 ✓

(76) National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; "Status Report on Assets Held in Foreign Exchange Depository" 7-1-46 ✓

(77) National Archives; RG 260; Finance; Box 161; File: Disposition of Valuables; "Disposition of Valuables"; January 28, 1947 ✓

(78) National Archives; RG 260; Property Division; Box 21; File: Silver Securities; "Hungarian Securities of J.&P. Coats, Ltd." 8-28-47

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

(80) *ibid.* ✓

(81) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; "external ? Restitution"; February 3, 1947 → NOT FOUND
National Archives; Finance; Box 161; File: Disposition of Valuables; Cable CC-7904; February 3, 1947 ✓

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

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

- * (84) National Archives; RG 260; Property Division; Box 5; File: Disposition of Property of War Criminals; Cable CC-3852; April 14, 1948 ✓
- * (85) National Archives; AG Decimal File; Box 511; File #602.3 - Restitutions; Cable CC-³⁵⁸³~~5364~~; July 31, 1948 ✓
- * (86) National Archives; RG 260; Economics Division; Box 353; Czech Claims
- * (87) *ibid.*
- * (88) *ibid.*
- * (89) National Archives; RG 260; Economics Division; Boxes 353-354; File: Czech Claims
National Archives; RG 260; Economics Division; Box 360; File: Dutch Claims
- * (90) National Archives; RG 260; Economics Division; Box 361; Austrian Claims
- * (91) National Archives; RG 260; Economics Division; Box 353; Czech Claims
- * (92) National Archives; RG 260; Economics Division; Box 351; French Claims
- (93) National Archives; RG 260; Economics Division; Box 353; Czech Claims
- (94) National Archives; RG 260; Economics Division; Box 354; Czech Claims
- (95) National Archives; RG 260; Economics Division; Box 356; Czech Claims
- (96) National Archives; RG 260; Economics Division; Box 359; Dutch Claims
- (97) National Archives; RG 260; Economics Division; Box 358; Dutch Claims
- (98) National Archives; RG 260; Economics Division; Box 355; Czech Claims
- (99) National Archives; RG 260; Economics Division; Box 360; Dutch Claims
- * (100) National Archives; RG 260; Economics Division; Box 359; Dutch Claims
- * (101) National Archives; RG 260; Economics Division; Box 348; French Claims
- * (102) National Archives; RG 260; External Assets; Box 650; File: Policy - Germany External Assets; May 25, 1946 ✓
- * (103) National Archives; RG 260; Economics Division; Box 348; French Claims
- * (104) National Archives; RG 131; FFC Subject Files; Box 406; File: Scheduled Securities - Vol. I ✓ *2-11-47*
- * (105) *ibid.* ✓
- * (106) *ibid.* ✓
- * (107) *ibid.* ✓

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(108) National Archives; RG 131; FFC Subject Files; Box 404; File: Securities - Looted' "Memorandum Concerning Securities That Have Been Reported As Looted"; April 2, 1947 ✓

(109) National Archives; RG 131; FFC Subject Files; Box 404; File: Securities - Looted; "A Discussion with Members of the Netherlands Government Concerning Certain Cases Involving Securities that are Purported to have been Looted from Persons in the Netherlands"; April 16, 1947 ✓

(110) National Archives; RG 131; FFC Subject Files; Box 407; File: Vol. I; July 18, 1947 ✓

(111) *ibid.* ✓

(112) National Archives; RG 260; Economics Division; Box 348; French Claims

(113) National Archives; RG 260; Economics Division; Box 359; Dutch Claims

(114) National Archives; RG 260; Economics Division; Box 355; Czech Claims

* (115) National Archives; Finance; Box 130; File: Claims-Restitution; "Draft Press Release"; July 17, 1948 ✓

* (116) *ibid.* ✓

* (117) National Archives; RG 260; Economics Division; Box 358; Dutch Claims

* (118) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; "External Restitution" ?

(119) *ibid.* ?

* (120) National Archives; RG 260; Finance; Box 130; File: Claims-Restitution; August 7, 1948 ✓

* (121) *ibid.* ✓

* (122) *ibid.* ✓

* (123) National Archives; RG 260; Economics Division; Box 353; Czech Claims; January 31, 1948 ✓

(124) National Archives; RG 260; Finance; Box 428; File: Outgoing Shipment 17; "Shipping Ticket"; January 18, 1949 ✓

(125) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; "Unfinished Business in Reparations and Restitution Program" ✓ 7-20-49

(126) National Archives; RG 260; Economics Division; Box 355 File: Czech Claims; "Ludwig Meyerheim" ✓ 207 REC

(127) National Archives; RG 260; FED; Box 423; "Request for Evaluation of Property from FED"; March 16, 1949 ✓ 10 JVF

(128) *ibid.* ✓ PS 15 45 940. 12 - FEB LIS

(129) National Archives; RG 260; Property Division; Box 24; File: Benedict Czech Securities; 5-14-48 ✓

(130) National Archives; RG 260; AG Decimal File; Box 607; File #602.3 - Restitution; "Cable CC-6723" ✓; 11-14-48

(131)

REPRODUCED AT THE NATIONAL ARCHIVES

(132) National Archives; RG 60; Reparations and Restitution Branch; Box 27; File: Misc. Restitution; "Cable
CC-7533"; JAN. 24, 1949 ✓

(133) National Archives; Reparations and Restitution; Box 22; File: Freund/Feigl Restitution; May 31, 1951 ✓

(134) National Archives; Economics Division; Box 355; File: Czech Claims; December 28, 1950 ✓

(135) National Archives; Economics Division; Box 355; File: Czech Claims; December 11, 1951 ✓

✶ (136) National Archives; RG 260; Reparations and Restitutions; Box 22; Annex A to DFIN/BC/Memo[47]2, Allied
Control Authority, Finance Directorate, Banking Committee, Restitution of Looted Securities; December 6, 1946 ✶

NOT IN BX 22

- Mc Nam Library - Cross
Notes - need Inventories
of properties: Securities, etc

- B.M.G. Law 59 Note

PRESIDENT'S COMMISSION ON HOLOCAUST ASSETS

Securities

U.S. restitution policy, as promulgated by the U.S. Military Government in Germany [OMGUS], including the return of securities, was based upon the so-called London Declaration of January 5, 1943. The London Declaration, also known as the "Inter-Allied Declaration against Acts of Dispossession committed in Territories under Enemy Occupation or Control" contained a formal warning to all concerned that the Allied Powers would subject the economic exploitation of Axis-occupied countries to scrutiny and remedial action and that whoever transacted business thereafter in, or acquired property from such countries, did so at his own risk. Constructive notice was given thereby of possible defects of title to securities which were purchased in occupied territory, and good faith of the purchases is therefore no valid defense. (1) In other words, securities purchased in Nazi-occupied countries after the January 5, 1943 Declaration were not acquired in good faith and therefore did not have good title, whether the purchaser knew of the Declaration or not. Securities purchased on that date or before were presumed to constitute normal commercial transactions. (2) The date of purchase was the key factor, not the actual delivery date. (3)

The Dutch argued that all securities removed during the war ought to be restituted. OMGUS denied all claims it felt were essentially commercial transactions. The subscription to or purchase of new issues during occupation will be presumed to have been a normal transaction upon the ground that the economy of the occupied country benefited to the extent of the counter value invested in that country at the the time! (4) 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. (5)

The London Declaration also entitled the postwar governments of German-occupied countries to the return of all property, including securities, removed from occupied territory by force, under duress or otherwise. In developing a set of restitution rules, the term "otherwise" has been interpreted restrictively to include only such property which was acquired in a transaction not essentially commercial in character, i.e., a transaction which, in fair appreciation

(1)

how defined? By his date division? looting of securities went on all through '42 at least in the occupied countries - if not earlier. The '43 declaration was a reaction.

Considered to be

unless proven otherwise?

Surely not all

required inquiry into provenance if they were to be of good title?

where? in US zone?

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 they were concerned, may have acted in good faith, is immaterial.(6) 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.(7) "Aryanization" in the form of a purchase and sale is not by itself sufficient to prove removal by force or duress.(8) 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.(9) 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 which the aryanization occurred.(10)

This presumes that it was a local resident who "aryanized" the asset - what if it was the occupier, who did not necessarily move the asset outside the country? ork.

Other reasons for rejecting claims included the absence of certificate numbers; when securities never left occupied country or were never in the occupied country(11); lack of identifiability as it follows from the nature of a "Girosammeldepot", ^{for example, where} there is no title to specific certificates(12); 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 ^{inheritance} heirship matters(13); lack of description of the securities in question(14); mere fact of abolition of foreign exchange restrictions between occupier and occupied nation(15); and when securities were voluntarily sent to Germany(16). Denied government claims remained on deposit with the Landeszentralbank under Law 53 awaiting final disposition.(17)

?? what does this mean?

what about clerical individual claims?

The United States differentiated between restitution claims and applications by the individual owners for the return of their securities ^{held} 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 is 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

What does this mean?

claim. Applications are received from the individuals and the securities and are returned directly to the individuals. These individuals are to be taken out of official channels.(18) However, government restitution took precedence over any individual claims.(19) 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."(20)

The U.S. considered all Volksbank [small German banks in occupied countries] removals of securities as removals under duress and therefore subject to governmental restitution.(21) Certificates that were purchased after the London Declaration on January 5, 1943 were to be restituted to the government of the affected occupied country. Also restituted to governments were looted Jewish-owned securities(22) that were now presumed to be heirless. Property [including securities] which was acquired from German-occupied countries is subject to external restitution in view of the fact that such occupation was used for the economic exploitation of those countries.(23)

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.(24)

The Foreign Exchange Depository found it "apparently impossible to find one single measuring stick for a valuation" of securities [including promissory notes].(25) "To facilitate valuation, several arbitrary assumptions" were made: 1) that governmental securities be valued at par; and 2) that the lowest price on certain dates be taken

could I see - still not clear.

by whom?

why then was the Dutch claim rejected? (p.1)

Do we know what dates? post-war - pre-war?

for valuation purposes in valuing non-governmental securities.(26)

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 issues], it is suggested that the following methods of conversion into the issuing country’s currency be used: 1) in the case of enemy countries, at the exchange rate existing on date of issuance”; and 2) “in the case of all countries, valued on basis of bid price [in the country in which the issue has been made], said bid price to be as of 31 December 1944, 31 December 1945, 31 March 1946, whichever is lower. Said valuation thus arrived at to be converted into terms of the issuing country’s currency at the current official exchange rate.”(27)

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 December 1944, 31 December 1945, 31 March 1946,” whichever is lower.(28) Whenever a quotation is not available, valuation should be obtained “by competent authorities in country concerned.”(29)

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.”(30) With all other securities, “first convert valuation into U.S. dollars at official rate”(31)

On July 1, 1946, the FED reported “about 500 bags of assorted securities” in their possession.(32) “The largest class of securities in volume seems to be Columbia and Concordia shares.”(33) The FED said it would take six weeks to prepare an inventory for these securities. (34) Yet, when the British made an 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.”(35)

One group of securities that was inventoried were the securities found in the Hungarian Orphans 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.(36)

The U.S. Military Government in Germany [OMGUS] established a deadline of December 31, 1948 for the filing of claims(37) 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:

Countries	# of Claims Filed(38)
Austria	69
Belgium	162
Czechoslovakia	331
France	76
Italy	1
Luxembourg	3
Netherlands	175
Norway	3
Poland	5

OMGUS stated ~~or~~ 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."(39) Within OMGUS, the responsibility for restitution of securities was transferred from the Reparations and Restitution Section to the Finance Division on April 11, 1949.(40) Security restitutions would continue through 1951.(41)

Two American citizens, Emil and Annie Benedict, filed claims with OMGUS in May 1948 for securities that were looted by the Germans.(42) Unfortunately, the U.S. had already mistakenly restituted them to Czechoslovakia.(43) Because the Czechoslovakian government recently became Communist, there was some apprehension about their eventual return, but the Czechs gave the securities back to OMGUS in January 1949,(44) two months after being asked.

1793

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- (1) National Archives; Record Group 260; Economics Division; Box 358
 - (2) National Archives; Record Group 260; Economics Division; Box 353
 - (3) National Archives; Record Group 260; Economics Division; Box 354
 - (4) National Archives; RG 260; Economics Division; Box 353
 - (5) National Archives; RG 260; Economics Division; Box 353

SPS in *Material*
(5) *Comments*

Interesting - but
do you mean to imply
that there were many
restitution errors?
Did you find any reference
to what was to be done about
securities that were not in
Germany but in neutral
countries

- (6) National Archives; RG 260; Economics Division; Box 348
- (7) National Archives; RG 260; Economics Division; Box 353
- (8) National Archives; RG 260; Economics Division; Boxes 353, 354, & 360
- (9) National Archives; RG 260; Economics Division; Box 361
- (10) National Archives; RG 260; Economics Division; Box 353
- (11) National Archives; RG 260; Economics Division; Box 351
- (12) National Archives; RG 260; Economics Division; Box 353
- (13) National Archives; RG 260; Economics Division; Box 354
- (14) National Archives; RG 260; Economics Division; Box 356
- (15) National Archives; RG 260; Economics Division; Box 359
- (16) National Archives; RG 260; Economics Division; Box 358
- (17) National Archives; RG 260; Economics Division; Box 355
- (18) National Archives; RG 260; Economics Division; Box 360
- (19) National Archives; RG 260; Economics Division; Box 359
- 79 (20) National Archives; RG 260; Economics Division; Box 348
- 79 (21) National Archives; RG 260; Economics Division; Box 348
- 80 (22) National Archives; RG 260; Economics Division; Box 359
- 81 (23) National Archives; RG 260; Economics Division; Box 355
- (24) National Archives; RG 260; Economics Division; Box 358
- (25) National Archives; RG 260; FED; Box 464; File: Appraisal, Securities; "Discussion of Suggested Plan for Valuation of Securities"
- (26) *ibid.*
- (27) *ibid.*
- (28) *ibid.*
- (29) *ibid.*
- (30) *ibid.*
- (31) *ibid.*

Bx 29 - Policy File
Done?

Bx 33 - Proceedings for Release of
non-Communist

Bx 5 213-214 - P. 527 - Pen. Inv.

Bx 10 - Books P 528

~~ALL FAA SPEN~~
MO 59 - 1933-45 under review
unless shown otherwise

(32) National Archives; RG 260; External Assets; Box 649; File: Gold and other Metals; "Status Report on Assets Held in Foreign Exchange Depository"

(33) *ibid.*

(34) *ibid.*

(35) National Archives; RG 260; Property Division; Box 21; File: Silver Securities; "Hungarian Securities of J.&P. Coats, Ltd."

(36) National Archives; RG 260; Property Division; Box 51; File: Book 2; "Restitution Claim No. 2250-M"

(37) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; "External Restitution"

(38) *ibid.*

(39) *ibid.*

(40) National Archives; RG 260; Property Division; Box 15; File: Reparations and Restitution; "Unfinished Business in Reparations and Restitution Program"

(41) National Archives; RG 260; Economics Division; Box 355; "Ludwig Meyerheim"

91 (42) National Archives; RG 260; Property Division; Box 24; File: Benedict Czech Securities

91 (43) National Archives; RG 260; AG Decimal File; Box 607; File #602.3 - Restitution; "Cable CC-6723"

91 (44) National Archives; RG 260; Reparations and Restitution Branch; Box 27; File: Misc. Restitution; "Cable CC-7533"

22 July BR 74

~~FOR~~ NEST - REVIEW ✓

~~FOR~~ Misc NEST

22 Summary of NEST PROC
IN US Zone, born

DATE?

CONTRACT?

AIMED: LOOK INTO ILO → LC
INTERACT

- Call once a DAY - See a Girl

- Unmarked Car → Buy Call

Diff. Fed Depositories?

CONFISCATIONS: Reichsmark
marks
w/ more else?

24 March '49 - So I HAVE
"SHORT HISTORY of External NEST." → check

WHAT IS FROM ~~ARMY~~ ORDER #3

Finance Advising → WHAT VAND?
CORROSP?



NARA APPROVED

10/1/99