

ANNEX

I

A. Property in Switzerland of Germans in Germany as defined under IV below, hereinafter termed "German property", shall be liquidated in the following manner:

a. Persons in Switzerland indebted to Germans in Germany shall be required to pay their debts into an account in the name of the Swiss Compensation Office with the Swiss National Bank and thus absolve themselves of liability.

b. All natural and juridical persons in Switzerland who in any form administer German property are to be required to surrender these assets to the Compensation Office. Such action will terminate their liability. The Compensation Office will liquidate the property and pay the proceeds into the account mentioned under "a".

c. The Compensation Office shall take title to all participations in Swiss enterprises or organizations belonging to Germans in Germany and shall liquidate them. The proceeds of liquidation shall be paid into the account mentioned under "a".

d. The Compensation Office will similarly proceed with the liquidation of any other German property.

e. The Joint Commission will give sympathetic consideration to cases, brought to their attention by the Compensation Office, relating to property of Swiss origin located in Switzerland and belonging to women of Swiss birth married to Germans and residing in Germany.

B. The Compensation Office will make every effort with the assistance of the Joint Commission to uncover all transactions of a cloaking nature whether by pawn, pledge, mortgage or otherwise, by which German property was concealed, and will ensure their annulment.

C. The Compensation Office will notify to the Joint Commission, for transmission to the competent authorities in Germany, the amount realized by the liquidation in each case of German property with particulars of the names and addresses of the German owners of that property. The competent authorities in Germany will take the necessary measures in order that there will be recorded the title of the German owners of the property liquidated to receive the counter value thereof in German money, calculated at a uniform rate of exchange. An amount equal to one-half of the total of the indemnities accruing to the German owners will be debited to the credit existing in the name of the Swiss Government at the "Verrechnungskasse" in Berlin. Nothing in this arrangement shall hereafter be invoked by one or the other party to this Accord as a precedent for the settlement of any Swiss claim upon Germany nor shall it be alleged that the Allied Government thereby recognized any right on the part of Switzerland to dispose of the credit above mentioned.

II

A. The Compensation Office will be empowered to uncover, take into possession, and liquidate German property.

B. The Swiss Government shall carry out this Accord in collaboration with the Governments of the United States, France, and the United Kingdom. For this purpose there shall sit in Berne or Zurich a Joint

Commission composed of representatives of each of the four Governments, which shall act by majority vote. The functions of the Joint Commission are enumerated below.

C. The Compensation Office and the Joint Commission will enter upon their functions as soon as possible after the coming into force of the Accord.

D. The Compensation Office will exercise its functions in collaboration with the Joint Commission. It will keep the Joint Commission periodically informed about its activities; it will reply to inquiries submitted by the Joint Commission relative to the common objective, i. e., the uncovering, the census, and the liquidation of German property. The Compensation Office will consult the Joint Commission before making important decisions. The Compensation Office and the Joint Commission shall place at the disposal of each other all information and documentary evidence likely to facilitate the accomplishment of their tasks.

E. The Compensation Office shall as hitherto investigate the locus and status of items of property suspected by it or reported to it by the Joint Commission as being or believed to comprise a German property, or to be of doubtful or disputed bona fide Swiss ownership. The conclusions of the Compensation Office will be discussed with the Joint Commission.

F. The Compensation Office will settle, in general or particular, in consultation with the Joint Commission, the terms and conditions of sales of German property, taking into reasonable account the national interests of the signatory Governments and those of the Swiss economy together with the opportunity of obtaining the best price and of favoring freedom of trade. Only persons of non-German nationality who are in a position to present suitable guarantees will be permitted to participate in the purchase of such property, and all possible measures will be taken to prevent resales to German persons.

III

If the Joint Commission after consultation with the Compensation Office is unable to agree to the decision of that office, or if the party in interest so desires, the matter may within a period of one month, be submitted to a Swiss Authority of Review. This Authority shall be composed of three members and shall be presided over by a Judge. This review will be administrative in form and the procedure shall be prompt and simple. The decisions of the Compensation Office, or of the Authority of Review, should the matter be referred to it, shall be final.

Nevertheless, if the Joint Commission is in disagreement with any decision of the Authority of Review, the three Allied Governments may, within one month, require the difference to be submitted to arbitration as follows: if the difference concerns matters covered by the Accord or the Annex or their interpretations, the difference may, if the Allied Governments desire, be submitted to an Arbitral Tribunal. This Tribunal shall be composed of one member designated by the three Allied Governments, a member designated by the Swiss Government, and a third member designated by the four Governments. Any such difference which is not of primary importance may, if the Joint Commission and the Compensation Office agree, be submitted

for decision to the member of the Tribunal who has been designated by agreement of the four Governments, who in such cases will sit as the Arbitral Tribunal.

The Arbitral Tribunal will not be restricted as regards the nature or proof of evidence produced before it and will have full jurisdiction to consider all matters of fact or law submitted to it.

The decision of the Arbitral Tribunal shall be final.

The expenses of the Arbitral Tribunal shall be a charge on the proceeds of the liquidation of German property, before their division.

IV

A. The term "property", as used in the Accord and this Annex, includes all property of every kind and description and every right or interest of whatever nature in property acquired before the first of January, 1948. For the purposes of the Accord sums paid or payable by persons in Switzerland through the German-Swiss Clearing shall not be regarded as German property.

B. The expression "Germans in Germany" means all natural persons resident in Germany and all juridical persons constituted or having a place of business or otherwise organized in Germany, other than those organizations of whatever nature the ownership or control of which is held by persons who are not of German nationality. Appropriate measures will be taken to liquidate the interests in Switzerland which German nationals resident in Germany have through such organizations and equally to safeguard substantial interests of non-German persons which would otherwise be liquidated.

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Extract from the

ALLIED-SWISS ACCORD OF AUGUST 28, 1952

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ARTICLE 1

The Swiss Government shall without delay pay in favor of the Three Governments into an account to be opened with a banking institution designated by the Three Governments the sum of Swiss Francs 121,500,000, which, under the terms of the Swiss-German Agreement, will be paid to the Swiss Government by the German Federal Government within two weeks after the receipt by the German Federal Government of notification of the entry into force of the present agreement, subject, however, to the deduction from said sum of Swiss Francs 20,000,000 which have been advanced by the Swiss Government in accordance with Section V of the Annex to the Washington Accord.

When payment into the designated account is made, the obligations of all parties to the Washington Accord with respect to German assets in Switzerland which are owned by persons who are resident in the German Federal Republic and in the Western Sectors of Berlin shall

be regarded as discharged and the provisions of the Accord and the Annex thereto shall cease to have effect with respect to such assets, and the claims of the Three Governments and of the governments on whose behalf they are acting to such assets shall be regarded as finally settled.

The provisions of this agreement shall be without prejudice to the position of any country, party to this agreement, respecting the application, interpretation and fulfillment of such provisions of the Washington Accord as are not affected by this agreement.

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ARTICLE 3

The terms of this agreement and of the Swiss-German Agreement, shall be without prejudice to any position which a country that is a member of the Inter-Allied Reparation Agency may take respecting any inter-custodial agreement concluded or to be concluded between the Swiss Government and such country.

ARTICLE 4

Nothing in this agreement or in the Swiss-German Agreement shall be deemed to confer upon any person or government rights regarding any property under the jurisdiction of any country which was at war with Germany after September 1, 1939.

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EXCHANGE OF LETTERS CONTEMPORANEOUS WITH THE ALLIED-SWISS ACCORD OF AUGUST 28, 1952

BERN, SWITZERLAND, *August 28, 1952.*

MR. WALTER STUCKI,
*Minister Plenipotentiary,
Chief of the Swiss Delegation,
Bern, Switzerland.*

DEAR MR. MINISTER:

The Governments party to the Washington Accord of May 25, 1946, have disagreed regarding a number of points arising under that Accord. It had been the hope of these Governments that in the recent negotiations for the resolution, among other things, of the problem of German assets in Switzerland, means would be found by which the existing disagreements could be resolved. This has not been possible in every respect.

The parties to the Accord have now entered into a further agreement. It seems desirable that the parties should recognize that the disagreements with respect to Articles IV and VI of the Washington Accord and the principles of law involved, do still exist and that the agreement reached today does not resolve them. It should be understood that the respective positions of the Governments of the countries who are party to the Accord, with respect to Articles IV and VI and

the principles of the law involved, remain the same as expressed in the past.

We would appreciate an expression of your concurrence.
For the Government of the French Republic:

For the Government of the United Kingdom of Great Britain and Northern Ireland:

For the Government of the United States of America:

LE DELEGUE DU CONSEIL FEDERAL,
POUR DES MISSIONS SPECIALES,
Berne, August 28, 1952,
Thunstrasse 50.

Confidential

To the CHIEFS OF THE ALLIED DELEGATIONS,
Berne.

GENTLEMEN,

I have received your letter of this day reading as follows:

"[See preceding letter]"

I have the honor to confirm to you my Government's concurrence with the statement set forth above.

Sincerely yours,

LE DELEGUE.

LE DELEGUE DU CONSEIL FEDERAL,
POUR DES MISSIONS SPECIALES,
Berne, August 28, 1952,
Thunstrasse 50.

Confidential

To the CHIEF OF THE DELEGATION OF THE UNITED STATES,
Berne.

SIR,

In determining the contribution to be paid for the release of assets covered by article 18 (1) 3 of the Swiss-German Agreement concerning German property in Switzerland the Swiss authorities are prepared to take into account American interests in such companies, provided they amount to 25% or more and provided they already existed on February 16, 1945. In such cases the contribution will be reduced accordingly.

The Swiss Government expresses the firm hope that the American authorities will in turn protect similar Swiss interests in assets in the United States belonging to such companies, without the need of a judicial procedure in each case.

Sincerely yours,

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BERN, SWITZERLAND, *August 28, 1952.*

MR. WALTER STUCKI,
*Minister Plenipotentiary,
Chief of Swiss Delegation,
Bern, Switzerland.*

DEAR MR. MINISTER:

I have the honor to acknowledge receipt of your letter of this day reading as follows:

"[See preceding letter]"

The contents of this letter have been duly noted.

For the Government of the United States of America:

BERN, SWITZERLAND, *August 28, 1952.*

MR. WALTER STUCKI,
*Minister Plenipotentiary,
Chief of the Swiss Delegation,
Bern, Switzerland.*

DEAR MR. MINISTER:

With reference to the agreement between the Swiss Confederation and the German Federal Republic concerning German property in Switzerland, which was signed on August 26, 1952, at Bonn, the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the United States of America desire to draw the attention of the Swiss Government to the following position of the Three Governments respecting Article 20 of the said Agreement. The Three Governments interpret the term "German property in Switzerland" which is used in the Article as not including property within the jurisdiction of any country which was at war with Germany during World War II, whether or not held or owing by any natural or juridical person in Switzerland, except to the extent such property has been or will be released to Switzerland pursuant to bilateral arrangements concluded between Switzerland and such country concerning inter-custodial problems.

For the Government of the French Republic:

For the Government of the United Kingdom of Great Britain and Northern Ireland:

For the Government of the United States of America: