Official Communiques

Protocol of Agreements Reached between the Allied High Commissioners and the Chancellor of the German Federal Republic at Petersberg on Nov. 22, 1949.

Following the meeting of the three foreign ministers in Paris on Nov. 9, the American, the British and the French Chancellors were authorized to discuss with the federal chancellor the letters which he had addressed to them on the subject of dismantling with a view to solving the whole problem. The instructions to the High Commissioners also covered a field of wider application and required them to examine with the chancellor other points to be included in a general settlement. Discussions took place accordingly on Nov. 15, 17 and 22 at Petersberg, Berlin, in which the Chancellor took a leading part. The agreements reached are based on the determination of both parties that their relations should develop progressively on a basis of mutual confidence. Meanwhile, their primary objective is the incorporation of the Federal Republic as a peaceful member of the European community and the exchange of commercial and consular representation with other countries.

Both the High Commissioners and the chancellor appreciate that progress must depend upon the re-establishment of a true sense of security in western Europe and that they have addressed themselves particularly to this end. In all these matters they have been encouraged by the interest and attention and they have in particular agreed upon the following:

I. The High Commission and the Federal Government are to promote the participation of Germany in all those international organizations through which German experience and support can contribute to the welfare of the world.

II. The Federal Government has reaffirmed its commitment to the various steps already achieved in this connection, including German participation. The Chancellor has further expressed the desire that the Federal Republic should be promptly admitted to the Council of Europe as a full member and that the High Commission in consultation with the government of the United States of America covering the Rhineland.

III. The Federal Government, appreciating the desirability of the closest possible cooperation between Germany and her neighbors in the re-establishment of a Western European security system, declares its intention of applying for membership of the International Authority for the Ruhr in which, at present, the Federal Government is represented. It is being understood between both parties that German accession will not be subject to any special conditions under Article 31 of the agreement on the establishment of the International Authority for the Ruhr.

IV. The Federal Government further declares its earnest determination to maintain the demilitarization of the federal territory and to use all resources to prevent the rearmament of armed forces of any kind. To this end, the Federal Government will cooperate fully with the High Commission in the work of the Military Security Board.

V. It is further agreed between them that the Federal Government shall now initiate the gradual re-establishment of consular and commercial relations with those countries with which such relations appear advantageous.

VI. The Federal Government affirms its resolve as a freely elected democratic body to pursue unreservedly the principles of freedom, tolerance and human dignity as an integral part of the organization of western Europe, and to conduct its affairs according to those principles. The Federal Government is firmly determined to eradicate all traces of Nazism from German life and institutions and to prevent the revival of totalitarianism in this or any form. It will seek to liberalize the structure of government and to exclude authoritarianism.

VII. In the field of decartelization and monopolistic practices the Federal Government has agreed to take appropriate action corresponding to decisions taken by the High Commission in accordance with Article 2 (b) of the Occupation Statute.

VIII. This High Commission has communicated to the chancellor the terms of the agreement reached by the three foreign ministers for the relaxation of the present restrictions on German shipbuilding.

The main provisions now agreed are as follows:

The establishment of ocean-going ships, excluding those primarily designed for passenger and tanker services, up to 7,200 tons, and smaller vessels up to 650 tons and coastal vessels up to 2,700 tons not exceeding 12 knots speed may begin forthwith. The number of such ships to be constructed shall not be limited.

The Federal Government may, with the approval of the High Commission, acquire or construct before Dec. 31, 1950 six special ships excluding those limitations of size and speed. Further particulars on this point were communicated to the chancellor.

The federal chancellor raised the question of the construction and repair of German ships in shipyards for export. The High Commission indicated that the matter was not discussed by the Committee of Experts and that they were not in a position to make a final decision on it. However, they will meanwhile authorize Germany to proceed with the construction and repair of German ships without restrictions for the purpose of securing a position for the German economy; they will authorize repair of foreign ships without restriction.

a. Synthetic oil and rubber plants.

b. Steel plants.


Chemische Werke, Huls; (Note attached to Article 2: except for certain research equipment at these plants involving an important security element)

Gelsenkirschen, A. G., Gelsenkirchen.

Bygnerwerke Scholven, A. G., Gelsenkirchen-Buer.

Ruhrort G. m. b. H., Bottrop.

Ruhrchemie, A. G., Oberhausen-Holten.

Gewerkschaft Votter, Castrop-Rauxel.

Krupp Fuhlenfeldwerk, Essen.

Steinkohlenwerk, Rhein Preußen, Moers.

Dortmund Paraffin Werke, Dortmunt.

Chemische Werke Essener Steinkohle, Bergkenne.

N. V. de Hoeksevaart, Rotterdam.

B. Bochumer Verein, A. G., Gussstativwerke, Bochum.

Chemische Werke, Huls; (Note attached to Article 2: except for electric furnaces not essential to the production of the works will continue to be dismantled or destroyed.)

In addition, the Federal Government at Ludwigshafen-Oppau will not take place except for the removal of the equipment for the production of synthetic ammonia and methanol to the extent permitted by the German government of the Federal Republic.

a. All dismantling in Berlin will cease and work in the affected plants will be again rendered possible.

b. The dismantling of the Ruhr area's industry will proceed as before and will be completed by the end of 1950.

c. The remaining machinery and equipment, where dismantling has been stopped, will be subject to inspection to confirm that the dismantling has been completed.

The production of steel (1,100,000 tons per annum) is not exceeded.

IX. The question of the termination of the state of war was discussed, and it was agreed that it should be regarded as consistent with the spirit of this protocol, it presents no insurmountable legal and practical difficulties which need to be examined.

X. The High Commissioners and the federal chancellor have signed this protocol with the understanding that it is intended to carry effect the purposes stated in the preamble hereof and with the hope that their understandings will constitute a notable contribution to the incorporation of Germany into a peaceful and stable European community of nations.

B. H. Robertson

A. Francois-Foncen

K. Adenauer

J. McCloy

Nov. 17 Meeting of HICOM

Direct German participation in two more international organizations was authorized at the ninth meeting of the High Commission at its sixth meeting, held at Petersberg, near Bonn, Nov. 17. The organizations are the International Patent Institute, the Hague, and the International Customs Union Study Group, Brussels.

Present at the Nov. 17 meeting were Sir Bryan Robertson, United Kingdom High Commissioner (chairman), M. André François-Foncen, French High Commissioner, and Mr. John J. McCloy, United States High Commissioner.

The International Patent Institute was established in June 1947, by representatives of France, Belgium, the Netherlands and Luxembourg. The Council decided to forward to the federal government a letter from the board of directors of the Institute expressing the desire to proceed on an equal footing with other members and indicating the board's readiness to call upon German technicians and administrators for the operation of the Institute.

Associating itself with the invitation, the Council noted the important potentialities of the institute in fostering European cooperation and its importance as a factor in world peace. (see "Patents System" on page 27).

The Council also decided it would interpose no objection to possible future full German membership in the European Customs Union Study Group.

The Federal Government was established Sept. 13, 1947 by the European Recovery Program (ERP) countries. Its task is to investigate the problems connected with European Customs Union and one of the objectives of the Council of Experts on German Economic Reorganization (CEGER) of April 16, 1948 and to consider measures necessary to create a customs union or several customs unions among European governments.

German representation to the group has been limited to observers since its establishment. The reason given by the German observers, however, have frequently been called in as witnesses and have been encouraged to cooperate in a number of committees.

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Council. After a general survey of the problems, the Council decided to direct Allied financial experts to exchange information and views with German representatives.

The Council also discussed the setting up of a uniform system for the definition and acceptance of occupation costs to begin operation for the financial year 1950/51. Much preparatory work on a uniform system has been completed by a Taipartite Committee of Experts. A decision on the contents of the uniform system of the work so far, the Council directed its financial advisers to complete their systematization.

The nationality of Luxembourgers who had been German citizens by Nazi legislation was provided for by the Council's decision to extend the scope of Allied High Commission Law No. 16 (text in December issue), which was signed at the fifth meeting of the Council. In relation to French and Luxembourg nationalities, the Law nullifies the Reich Ordinance of Aug. 23, 1942 (RGB 1. 1. 535) and the Fuehrer's decree of May 19, 1943 (RGB 1. 1. 315).

The Council decided that in December, because of the Christmas recess, a departure would be made from the normal practice whereby meetings are held only on the last three Thursdays of each month. The first meeting following the Christmas recess will be held on Jan. 15 when the French High Commissioner will assume the chairmanship.

Dec. 1 Meeting of HICOM

At its eighth meeting held at Petersberg, near Bonn, Dec. 1, the Council of the Allied High Commission received a letter from the government of Luxembourg, accepting its membership of the International Authority for the Ruhr. The Council decided to transmit the request, which was signed by the federal chancellor, Dr. Konrad Adenauer, on behalf of the German government, to the International Authority for the Ruhr. The chancellors letter was handed to representatives of the Ruhr Authority at a meeting with the High Commission held at Petersberg during the afternoon, following the formal session of the Council. The Ruhr Authority was represented by Mr. Henry Pankman, chairman (US), and the executive secretary, M. G. Kaeckenhoff.

The representatives of the Council were Mr. Andre Franqois-Poncet, French High Commissioner (chairman), Mr. John J. McCloud, United States High Commissioner, and M. C. E. Steele, United Kingdom Deputy High Commissioner, representing Sir Donald Maclean, the British representative. The Council also received a report from the High Commissioner on the situation in Western Germany, while retaining the principle of asylum for genuine political refugees enunciated in the Basic Law.

The Council accepted requests presented by the following foreign missions for accreditation and took note of the names of the heads of these missions:
- Switzerland, Mr. Eduardo Garcia Comin.

These names are in addition to those already accepted at the fifth meeting of the Council on Nov. 19. The ceremony of presentation to the Council of the credentials of the heads of missions will be held on Dec. 15.

The question of the elimination of the effects of discriminatory trade practices, following the establish of the Taipartite Committee of Experts, was also discussed by the Council. The Council considered a report by Allied experts who have completed an extensive study of this question, undertaken since the revaluation of the Deutsche mark. The Council decided that it would be advisable to bring to the knowledge of the Council the report of the expert in sub-topic 9 of Article 2 of the Taipartite Committee of Experts and to request them for their remarks on the subject. The federal chancellors will be so informed and will be asked to designate his experts.

The Council considered the statement from the High Commission, sufficiently in advance, of any intended modifications in the field of prices, rationing and allocations. Powers in this field have already been handed over to the federal government. The High Commission has no authority to re-establish such a system as will not result in an increase of German needs in funds, food and other supplies. The High Commission's decision pertains to products which have already been handed over to the control of the High Commission. The goods in question are "coal, gasoline, steel, iron, crude oil, diesel oil, electricity and gas, grains and fodder grains including derivatives, fats, sugar and live cattle."
(i) to have been committed against the person or the property of any person or organization included in sub-paragraph (a) hereof;
(ii) to have been committed against enmities of the Occupation Authorities;
(iii) to have arisen out of or in the course of performance of duties or services with the Allied Forces.

Article 2
Except when expressly authorized, either generally or in specific cases, by the High Commissioner of the zone in which the court is located, German courts shall not exercise jurisdiction in any non-criminal case:
(a) in which any of the parties is within the purview of Article 1 (a);
(b) in which the issues to be decided include any matter arising out of or in the course of performance of duties or services with the Allied Forces.

Article 3
1. No German court shall render a decision which impedes the validity or legality of any legislation, regulation, directive, decision or order published by the Occupation Authorities or of any authority to which they have succeeded or as to the applicability of Articles 1 or 2 of this law to any person or property must be decided, the German authorities concerned shall forthwith suspend further action and refer such question to the appropriate Occupation Authorities or any Occupation court to which they may refer such question shall issue a certificate determining it. Such certificate shall be binding on the German authorities.

1. All proceedings and every decision taken by a German court on any matter excluded from its jurisdiction shall be null and void.
2. A High Commissioner may validate retroactively any judicial or extra-judicial act taken in this zone in contravention of the provisions of Article 17 of Military Government Law No. 2 or of Article 2 of Ordinance No. 173 of the French Commander-in-Chief in Germany.

Article 5
Where the German authorities require the production of any document or report in order to assess the status of an organization within the purview of Article 1 (a) or the presence of any such person as a witness, they shall make application to the authority designated for this purpose by the Council of the Allied High Commission.

The Occupation Authorities may require the production of any document, records, files and other documents and the attendance of any witness either in person or by witness of any case in any German court or before any German court, the higher or not heard in public, whether such authorities consider the interests or the Occupation to be involved.

Article 6
1. The Occupation Authorities may, either generally or in specific cases, by a German court any proceeding directly affecting any of the persons or matters within the purview of paragraph 2 of the Occupation Statute.
2. The Occupation Authorities may suspend any decision of a German court directly affecting any person or matter within the purview of paragraph 2 of the Occupation Statute or of article 1 (a) of this law.
3. The Occupation Authorities may take such measures as they may deem necessary for the determination of cases withdrawn from the jurisdiction of German courts pursuant to paragraphs 1 and 2 of this article. In particular, they may transfer such cases to Occupation courts.
4. An Occupation court exercising jurisdiction under this article shall have the power:
(a) to confirm, nullify or modify any proceeding, decision, judgment, sentence or execution order of a German court;
(b) to direct a trial and retrial of the case in a German court.
5. Every judgment or decision of an Occupation court in any case withdrawn from a German court shall be binding on all German courts and authorities and shall not be subject to review by German courts.

Article 7
In cases outside the jurisdiction of German courts under this law, no German authority may, except when expressly authorized either generally or in specific cases by the Occupation Authorities, impose any penalty or coercive measure of any description.

Article 9
1. The powers vested in the Occupation Authorities by Article 3, paragraph 2, and Articles 6, 7 and 8 of this law will be exercised:
(a) by the High Commissioner in cases coming before a federal court of authority;
(b) by the High Commissioner in cases coming before any other court or authority in his zone.
2. The Allied High Commission and each High Commissioner may delegate the exercise of their respective powers under this law to any person or authority designated for such purpose.

Article 10
In every case, both criminal and non-criminal, the period during which the alleged offense has been committed of jurisdiction by reason of the provisions of any legislation of the Occupation Authorities or of any authority to which they have succeeded shall not be included in calculating any legal time limit.

Each High Commissioner may take such measures as he may deem necessary to provide for the determination of cases which under this law will not be within the jurisdiction of the German courts.

The Allied High Commissioner or the authority designated by him shall exercise the powers of a High Commissioner under this law with respect to the special area directly under the Allied High Commission at the seat of the German federal government.

The Occupation Authorities may issue regulations implementing this law.

The provisions of Control Council Law No. 4 (Reorganization of the German Judicial System) or as hereby deprived of effect in the territory of the Federal Republic.
2. The following legislation is hereby repealed:
British Military Government Law No. 1 (German Courts),
British Military Government Ordinance No. 20 (Jurisdiction of the German Courts in respect of Offenses against Military Government Enactments) and Regulations thereunder,
British Military Government Ordinance No. 29 (Limitation upon the Jurisdiction of German Courts),
British Military Government Ordinance No. 108 (Advisory Opinions of Control Council Courts, 1945),
British Military Government Ordinance No. 174 (Interpretation of Military Government Orders),
Article 119 of British Military Government Ordinance 165 and the Schedule to the Ordinance (Jurisdiction of Administrative Courts in the British Zone),
Article XXVIII of British Military Government Ordinance No. 175 and the Schedule to the Ordinance (Functions of the Finance Courts),
Ordinance No. 173 of the French Commander-in-Chief in Germany (Distribution of Jurisdiction between Occupation Courts and German Courts),
Regulation of the Control of German Justice).
United States Military Government Law No. 2, as amended, and all regulations and authorizations issued thereafter (German Courts).
3. Cases in which action has been taken by the Occupation Authorities prior to the effective date of this law pursuant to any of the legislation repealed thereunder may be disposed of in accordance with such legislation.

This law shall come into force on Jan. 1, 1950.

Law on Offenses against the Interests of the Occupation
The Council of the Allied High Commission enacts as follows:

In Part I:
Special Provisions

Article I
The following offenses are punishable by the penalties specified in one or both of the following clauses: (a) death or imprisonment for a term of any duration, including life imprisonment; (b) fine not exceeding DM 10,000.

1. Espionage committed in order to prejudice the security or interests of the Occupation Authorities or Occupation Forces;
2. Unauthorized possession of information which may be dangerous to the security or property of the Allied Forces; unauthorized possession of such information without promptly reporting it to the Occupation Authorities;
3. Any act or omission committed for the purpose of interfering with or obstructing the Allied Forces in carrying on their functions or missions;
4. Armed attack or armed resistance to the Allied Forces;
5. Assault on any member of the Allied Forces causing death or permanent disability.

Article II
The following offenses are punishable by the penalties specified in one or both of the following clauses: (a) imprisonment for a term not exceeding 10 years; (b) fine not exceeding DM 50,000.

1. Endangering to obtain without authority, information the disclosure of which is likely to be prejudicial to the security or interests of the Occupation Authorities or Occupation Forces;
2. Incitement to or participation in rioting or public disorder, promoting, actively participating in or assisting any public gathering which has been prohibited by the Occupation Authorities or which is held for the purpose of sabotage, insurrection, subversion or otherwise to the prejudice of the Allied Forces;
3. Acts of conduct in aid or support of any person, group or government hostile to the interests of the Allied Forces, or intended to accomplish the reconstitution in any form whatsoever of any prohibited organization;
4. The theft, unauthorized acquisition, possession or disposition of property belonging to the Allied Forces;
5. Counterfeiting or altering any Occupation scrip; knowingly possessing or using any counterfeited or altered scrip; knowingly possessing or disposing of any property intended for such counterfeiting or altering.

Article III
The following offenses are punishable by the penalties specified in one or both of the following clauses: (a) imprisonment for a term not exceeding five years; (b) fine not exceeding DM 25,000.
Official Announcements

Statutory Leave

Statutory leave is leave to visit the continental limits of the United States, whereby the government bears the cost of transportation. Transit time, incidental expense and per diem are authorized.

Transit time, incidental expense and per diem are authorized.

1. Offering or receiving a bribe for non-performance by anyone on duty owed to the Occupation Authorities or the Occupation Forces;
2. Resisting arrest by anyone acting under the authority of the Occupation Authorities or Occupation Forces or escaping from arrest or detention imposed pursuant to the authority of such Authorities or Forces;
3. Harboring or concealing any person, knowing or having reasonable grounds to believe that such person has committed or is about to commit an offense in which the Occupation Authorities or the Occupation Forces or any agent acting under their authority, with the intent of interfering with or misleading any person for cooperating with the Occupation Forces or with an offense committed under the authority of the Occupation Authorities in the performance of his duties or obligations;
4. Failure to pay the flag or emblem of an organization prohibited by the Occupation Authorities.

Part II

General Provisions

Article V

The provisions of this article shall apply to all offenses under legislation of the Occupation Authorities.

1. The court may order the confiscation of any property which is the subject matter or proceeds of an offense or was used in the commission of an offense.
2. Property so confiscated shall be disposed of as the Occupation Authorities may direct.
3. The payment of a fine within a specific time as may be determined by the court, the convicted person shall, unless the judgment otherwise provides, be imprisoned on the application of the appropriate authorities and shall undergo one day's imprisonment for every $10 or the unpaid portion, however, if such imprisonment shall not exceed two years.
4. Any director, official, partner or employee of any association or corporation who, while in possession of any such capacity knowingly takes, any part whatsoever in an offense committed by such association, may be prosecuted therefore as though such offense had been committed by him in his personal capacity.
5. A person who, at the time of the commission of the offense for which he is convicted, has not attained the age of 18 years, shall not be subject to imprisonment.
6. A person who, at the time of the commission of any offense for which he is convicted, has not attained the age of 14 years, shall not be subject to imprisonment therefor.
7. Upon conviction of an offense a taxicab person shall not be liable to the fines and confiscations provided for such offense.
8. An attempt to commit an offense in the same manner as the offense.
9. A person who aids, abets, or conspires with another to commit an offense or who counsels or procures the commission of an offense shall be subject to the penalties provided for the offense.

Use of Foreign Terms

The use of foreign language terms such as Bahnhof, Autobahn, Gesellschaftsleben, etc., in the translation of this command affords opportunity for misinterpretation by personnel not conversant with the German language and will be avoided in line of duty investigations, casualty, or other reports.

Communications Responsibility

Under tripartite agreement, complete management and control responsibility for international transit communications circuits in western Germany has been transferred to the West German Ministry