



Treaty Series No. 7 (1959)

# Agreement on German External Debts

[with Annexes and Subsidiary Agreements]

London, February 27, 1953

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# AGREEMENT ON GERMAN EXTERNAL DEBTS

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**AGREEMENT ON GERMAN EXTERNAL DEBTS**

*London, February 27, 1953*

The Governments of Belgium, Canada, Ceylon, Denmark, the French Republic, Greece, Iran, Ireland, Italy, Liechtenstein, Luxembourg, Norway, Pakistan, Spain, Sweden, Switzerland, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and Yugoslavia

of the one part,

and

The Government of the Federal Republic of Germany

of the other part,

Desiring to remove obstacles to normal economic relations between the Federal Republic of Germany and other countries and thereby to make a contribution to the development of a prosperous community of nations;

Considering that, for about twenty years, payments on German external debts have not, in general, conformed to the contractual terms; that from 1939 to 1945 the existence of a state of war prevented any payments from being made with respect to many of such debts; that since 1945 such payments have been generally suspended; and that the Federal Republic of Germany desires to put an end to this situation;

Considering that France, the United Kingdom of Great Britain and Northern Ireland and the United States of America have, since 8th May, 1945, furnished to Germany economic assistance which has substantially contributed to the rebuilding of the German economy, with the effect of facilitating a resumption of payments on the German external debts;

Considering that on 6th March, 1951, an exchange of letters (copies of which are contained in Appendix A to the present Agreement) took place between the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Government of the Federal Republic of Germany, which constitutes the basis on which have been established the present Agreement for the settlement of German external debts (with its Annexes) and the agreements for the settlement of the debts arising out of the economic assistance furnished to Germany;

Considering that the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America set up a Commission entitled the Tripartite Commission on German Debts for the purpose of preparing for and working out, with the Government of the Federal Republic of Germany, with other interested Governments and with representatives of creditor and debtor interests, a plan for the orderly overall settlement of German external debts;

Considering that this Commission informed the representatives of the Government of the Federal Republic of Germany that the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America were prepared to make important concessions with respect to the priority of their claims for post-war economic assistance over all other foreign claims against Germany and German nationals and with respect to the total amount of these claims, on condition that a

satisfactory and equitable settlement of Germany's pre-war external debts was achieved;

Considering that such a settlement of German external debts could be achieved only by a single overall plan which would take into account the relative positions of the various creditor interests, the nature of various categories of claims and the general situation of the Federal Republic of Germany;

Considering that, in order to achieve this purpose, an International Conference on German External Debts, which was attended by representatives of interested Governments and of creditor and debtor interests, was held in London from 28th February, 1952, to 8th August, 1952;

Considering that these representatives made agreed recommendations as to the terms and procedures of settlement (the texts of which are reproduced as Annexes I to VI, inclusive, to the present Agreement); that these recommendations were appended to the Report of the Conference on German External Debts (the text of which is reproduced as Appendix B to the present Agreement); and that the present Agreement has been inspired by the principles and objectives set forth in the above-mentioned Report;

Considering that the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America, having found that these recommendations provide a satisfactory and equitable plan for the settlement of German external debts, have this day signed with the Government of the Federal Republic of Germany bilateral agreements for the settlement of debts arising from the post-war economic assistance furnished by these three Governments which set forth their modified rights and priorities in respect thereto;

Have agreed as follows:—

## ARTICLE 1

### *Approval of Settlement Terms and Procedures*

The Parties to the present Agreement regard the provisions thereof and of the Annexes thereto as reasonable in the light of the general situation of the Federal Republic of Germany and as satisfactory and equitable to the interests concerned. They approve the settlement terms and procedures contained in the said Annexes.

## ARTICLE 2

### *Implementation by the Federal Republic of Germany*

The Federal Republic of Germany will enact such legislation and take such administrative action as may be necessary to give effect to the present Agreement and the Annexes thereto and will modify or repeal such legislation and administrative measures as are inconsistent therewith.

## ARTICLE 3

### *Definitions*

For the purposes of the present Agreement and of Annexes IX and X thereto only, unless the context requires otherwise—

- (a) "creditor" means a person, other than the Government of the Federal Republic of Germany, to whom a debt is owing;

- (b) "creditor country" means a country, other than the Federal Republic of Germany, the Government of which becomes a party to the present Agreement and includes any territories to which the present Agreement is extended under Article 37;
- (c) "currency option" means a term of a contract under which a creditor has the right to require payment in any one of two or more currencies;
- (d) "debt" means a debt as qualified in Article 4;
- (e) "fixed," in relation to the amount of a debt, means established by agreement, by final judgment or order of a court or final decision of an arbitral body, or by operation of law;
- (f) "marketable securities" means stocks, shares, bonds and debentures which were issued for public subscription or form part of an issue which is or has been dealt in on a recognised stock market;
- (g) "offer of settlement," as used in relation to a bonded debt, means an offer by the debtor of terms of payment and other conditions which have been established for such debt in accordance with the present Agreement and the Annexes thereto, by negotiation between the debtor and the appropriate creditors' representative, by final judgment or order of a court or final decision of an arbitral body;
- (h) "Party to the present Agreement" means any Government as to which the present Agreement has entered into force in accordance with the provisions of Article 35 or Article 36 thereof;
- (i) "person" means any natural, collective or juridical person under public or private law, and any Government, including all political subdivisions, corporations under public law, including agencies and instrumentalities thereof and individuals acting on their behalf;
- (j) "resides in" or "residing in" means having his ordinary residence in: a juridical person or a partnership shall be deemed to reside in the country under the laws of which it is organised or, if its head office is not in that country, in the country in which its head office is registered;
- (k) "settled," in relation to a debt, means that terms of payment and other conditions have been established for such debt in accordance with the provisions of the present Agreement and the Annexes thereto, by agreement between the creditor and debtor, or, in proceedings between the creditor and debtor, by final judgment or order of a court or by final decision of an arbitral body;
- (l) "settlement," in relation to a debt, means the establishment of terms of payment and other conditions in accordance with paragraph (k).

ARTICLE 4

*Debts to be Settled*

- (1) The debts to be settled under the present Agreement and the Annexes thereto are:—
  - (a) non-contractual pecuniary obligations the amount of which was fixed and due before 8th May, 1945;
  - (b) pecuniary obligations arising out of loan or credit contracts entered into before 8th May, 1945;
  - (c) pecuniary obligations arising out of contracts other than loan or credit contracts and due before 8th May, 1945;
- (2) Provided that such debts:—
  - (a) are covered by Annex I to the present Agreement, or

(b) are owed by a person, whether as principal or otherwise, and whether as original debtor or as successor, who, whenever a proposal for settlement is made by the debtor or a request for settlement is made by the creditor or, where appropriate in the case of a bonded debt, a request for settlement is made by the creditors' representative under the present Agreement and the Annexes thereto, resides in the currency area of the Deutschemark West;

(3) Provided also that such debts:—

(a) are owed to the Government of a creditor country; or

(b) are owed to a person who, whenever a proposal for settlement is made by the debtor or a request for settlement is made by the creditor under the present Agreement and the Annexes thereto, resides in or is a national of a creditor country; or

(c) arise out of marketable securities payable in a creditor country.

## ARTICLE 5

### *Claims excluded from the Agreement*

(1) Consideration of governmental claims against Germany arising out of the first World War shall be deferred until a final general settlement of this matter.

(2) Consideration of claims arising out of the second World War by countries which were at war with or were occupied by Germany during that war, and by nationals of such countries, against the Reich and agencies of the Reich, including costs of German occupation, credits acquired during occupation on clearing accounts and claims against the Reichskreditkassen shall be deferred until the final settlement of the problem of reparation.

(3) Consideration of claims, arising during the second World War, by countries which were not at war with or occupied by Germany during that war, and by nationals of such countries, against the Reich and agencies of the Reich, including credits acquired on clearing accounts, shall be deferred until the settlement of these claims can be considered in conjunction with the settlement of the claims specified in paragraph (2) of this Article (except in so far as they may be settled on the basis of, or in connexion with, agreements which have been signed by the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America and the Government of any such country).

(4) Claims against Germany or German nationals by countries which were, before 1st September, 1939, incorporated in, or which were, on or after 1st September, 1939, allied to, the Reich, and of nationals of such countries, arising out of obligations undertaken or rights acquired between the date of incorporation (or, in the case of countries allied to the Reich, 1st September, 1939) and 8th May, 1945, shall be dealt with in accordance with the provisions made or to be made in the relevant treaties. To the extent that, under the terms of such treaties, any such debts may be settled, the terms of the present Agreement shall apply.

(5) The settlement of debts owed by the City of Berlin and by public utility enterprises owned or controlled by Berlin, and situated in Berlin, shall be deferred until such time as negotiations on the settlement of these debts are considered by the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America and by the Government of the Federal Republic of Germany and the Senat of Berlin to be practicable.



ARTICLE 6

*Payment and Transfer under the Agreement*

The Federal Republic of Germany will:—

- (a) make payments and transfers, in accordance with the provisions of the present Agreement and of the Annexes thereto, on the debts for which it is liable thereunder;
- (b) permit the settlement and payment, in accordance with the provisions of the present Agreement and the Annexes thereto, of debts for which any person other than the Federal Republic of Germany is liable, and make provision for the transfer of payments on such debts as are settled, under the provisions of this Agreement and the Annexes thereto.

ARTICLE 7

*Payment and Transfer with respect to certain Obligations due after 1945*

The Federal Republic of Germany will authorise payment of obligations outstanding at the date of the entry into force of the present Agreement, and authorise transfer within a reasonable time in respect of such obligations where appropriate in the light of the relevant provisions of the present Agreement and the Annexes thereto, provided that such obligations—

- (a) are non-contractual pecuniary obligations which originated before 8th May, 1945, and the amount of which was not fixed and due before that date, or
  - (b) are pecuniary obligations which arose out of contracts other than loan or credit contracts and which originated before 8th May, 1945, and became due on or after that day,
- and provided that such obligations fulfil the conditions laid down in paragraphs (2) and (3) of Article 4.

ARTICLE 8

*Prohibition of Discriminatory Treatment*

The Federal Republic of Germany will not permit, nor will the creditor countries seek from the Federal Republic of Germany, either in the fulfilment of terms of settlement in accordance with the present Agreement and the Annexes thereto or otherwise, any discrimination or preferential treatment among the different categories of debts or as regards the currencies in which debts are to be paid or in any other respect. Differences in the treatment of different categories of debts resulting from settlement in accordance with the provisions of the present Agreement and the Annexes thereto shall not be considered discrimination or preferential treatment.

ARTICLE 9

*Treatment of Transfers as Payments for Current Transactions*

Transfers of interest and amortisation payments made under the present Agreement shall be treated as payments for current transactions and, where appropriate, provided for in any bilateral or multilateral arrangements relating to trade or payments between the Federal Republic of Germany and the creditor countries.

ARTICLE 10

*Limitations on Payment*

The Federal Republic of Germany will, until the discharge or extinction of all obligations under the present Agreement and the Annexes thereto, ensure that payments will not be made in respect of obligations which, while covered by paragraphs (1) and (2) of Article 4, are owed to a Government

other than that of a creditor country or to any person not residing in or a national of a creditor country and which are or were payable in a non-German currency. This provision does not apply to debts arising from marketable securities payable in a creditor country.

## ARTICLE 11

### *Currency of Payment*

(1)—(a) Except as otherwise provided in the Annexes to the present Agreement, debts without a currency option shall be paid in the currency in which they are payable under the terms of the obligation. If such debts are denominated in German currency and, under the provisions of the Annexes to the present Agreement, are to be paid in a non-German currency, they shall be paid in the currency of the country in which the creditor resides.

(b) Notwithstanding the provisions of the preceding sub-paragraph, any payments agreements from time to time in force between the Government of the Federal Republic of Germany and the Government of a creditor country shall apply to debts which, under that sub-paragraph, are to be paid to persons residing in that country in a non-German currency. However, any such payments agreements shall apply to payments on bonded debts payable in a non-German currency other than the currency of the country party to the payments agreement only if the Government of such country agrees that such payments to persons residing in its territory may be made in its own currency.

(2)—(a) The question whether payment on debts with a currency option may continue to be required in a currency other than the currency of the country in which the loan was raised or from which credit was advanced shall be determined in a manner to be agreed upon among the Governments of the Federal Republic of Germany and of the countries the currencies of which are concerned.

(b) If a currency option provides for payment of a fixed amount of an alternative currency, the creditor shall be entitled to receive, in the currency of the country in which the loan was raised or from which credit was advanced, the equivalent, at the rate of exchange current on the date payment shall fall due, of such amount of the alternative currency as would have been payable if the option had been exercised.

(c) Payments on debts with a currency option made, prior to the determination provided for in sub-paragraph (a) of this paragraph, in the currency of the country in which the loan was raised or from which the credit was advanced, shall not be affected by such determination.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to debts covered by paragraphs 2 and 3 of Annex I to the present Agreement.

(4) Any payments agreements from time to time in force between the Government of the Federal Republic of Germany and the Government of a creditor country shall apply to payments on debts which are subject to the provisions of paragraphs (2) and (3) of this Article provided that these payments are due in the currency of the creditor country.

(5) In the case of debts originating in business transactions of a registered branch office of a creditor, a condition of which was that payment should be made to the country where the branch office is located, such country shall be deemed to be the creditor country within the meaning of this Article.

## ARTICLE 12

### *Treatment of Gold Clauses*

In the settlement and discharge of any debt denominated in a non-German currency on a gold basis or with a gold clause, the amount to be paid shall,

except as specifically provided otherwise in the Annexes to the present Agreement, be computed as below:—

- (a) The amount to be paid on a debt which, under the terms of the obligation existing at the time of the settlement, is denominated or payable in United States dollars or Swiss francs on a gold basis or with a gold clause, shall be determined without regard to such gold basis or gold clause. Any new contract entered into by the creditor and the debtor respecting such debt shall be denominated in United States dollars or in Swiss francs without reference to the value in terms of gold of such currency and shall not contain a gold clause.
- (b) The amount to be paid on a debt which, under the terms of the obligation existing at the time of the settlement, is denominated or payable in any other non-German currency on a gold basis or with a gold clause, shall be determined as follows:—
  - (i) the equivalent in United States dollars of the nominal amount due shall be calculated at the rate of exchange on the date when the obligation was contracted or, in the case of a bonded debt, when the bonds were issued;
  - (ii) the dollar figure so calculated shall be converted into the currency in which the obligation is to be paid in accordance with Article 11 at the rate of exchange between the United States dollar and such currency on the date when the amount payable is due, except that if such rate of exchange is less favourable for the creditor than the rate of exchange between the United States dollar and such currency on 1st August, 1952, the conversion shall be made on the basis of the rate of exchange on 1st August, 1952.

### ARTICLE 13

#### *Rates of Exchange*

Wherever it is provided in the present Agreement and the Annexes thereto that an amount shall be calculated on the basis of a rate of exchange, such rate shall, except in the cases provided for in Annex III and in Article 8 of Annex IV of the present Agreement, be—

- (a) determined by the par values of the currencies concerned in force on the appropriate date as agreed with the International Monetary Fund under Article IV, Section 1, of the Articles of Agreement of the International Monetary Fund<sup>(1)</sup>; or
- (b) if no such par values are or were in force on the appropriate date, the rate of exchange agreed for current payments in a bilateral payments agreement between the Governments concerned or their monetary authorities; or
- (c) if neither par values nor rates in bilateral payments agreements are or were in force on the appropriate date, the middle rate of exchange generally applicable for transactions ruling for cable transfers in the currency of the country in which payment is to be made in the principal exchange market of the other country on that date, or on the last date before that date on which such rate was ruling; or
- (d) if there is or was no rate of exchange as specified under (a), (b) or (c) at the appropriate date, the cross-rate of exchange resulting from the middle rates of exchange ruling for the currencies in question in the principal exchange market of a third country dealing in those currencies on that date or the last date before the said date upon which such rates were ruling.

<sup>(1)</sup> "Treaty Series No. 21 (1946)," Cmd. 6885.

## ARTICLE 14

### *Certain Debts Expressed in German Currency*

(1) The Federal Republic of Germany will take similar action to that provided for in paragraph 6 of Annex I to the present Agreement with respect to any Reichsmark debts for which it has assumed or may assume liability and which are not covered by that paragraph.

(2) In application of the principle of national treatment, the Federal Republic of Germany will further ensure that debts arising from Reichsmark bonds, which are not Goldmark debts with a specific foreign character, and which were owed on 21st June, 1948, to persons who on that date were nationals of or residents in a creditor country, and payment on which under legislation in the currency area of the Deutschemark West can be enforced only for a proportionate part, will be met in the same manner as similar liabilities towards persons residing in the currency area of the Deutschemark West.

(3) In the settlement of other debts payable in German currency and owed to nationals of creditor countries residing in the currency area of the Deutschemark West, the terms shall be not less favourable than those accorded to similar liabilities owed to any other persons residing in the said area.

## ARTICLE 15

### *Acceptance by Creditors*

(1) Only such creditors shall be entitled to benefit under any provision of the present Agreement and the Annexes thereto, including payment thereunder, as, in the case of bonded debts for which an offer of settlement is the appropriate procedure, accept the offer, or, in the case of other debts, assent to the establishment in accordance with such provisions of terms of payment and other conditions in respect of such debts.

(2)—(a) *In the case of bonded debts for which an offer of settlement is the appropriate procedure, the acceptance of the offer of settlement, within the meaning of paragraph (1) of this Article, shall be effected by submitting the old bonds or coupons—*

- (i) for exchange, if new bonds or coupons are issued, or
- (ii) for enfacement, if the settlement terms are to be enfaced on the old bonds or coupons.

(b) The holder of a bond covered by Annex II of the present Agreement, in respect of which an offer of settlement is made, shall have a period of at least five years from the date when such offer is made to accept such offer. The debtor shall extend this period for a reasonable cause.

(3) In the case of debts, other than those referred to in paragraph (2) (a) of this Article, the assent of the creditor to the establishment of terms of payment and other conditions within the meaning of paragraph (1) of this Article shall, where no definite requirement is laid down in any Annex to the present Agreement, be considered as effected if the creditor clearly indicates his assent in any manner.

(4) A debtor shall be subject to the application of the procedures for settlement prescribed in the present Agreement and the relevant Annexes thereto in respect of a debt only when he has made a proposal for settlement, a notification of adherence or a declaration of participation in respect of such debt under the provisions of the relevant Annex to the present Agreement. Nothing in this paragraph shall, however, be deemed to affect the provisions of Article 17 of the present Agreement.

(5) In giving effect to the provisions of Article 2 of the present Agreement, the Federal Republic of Germany shall be entitled to take into account the provisions of the foregoing paragraphs of this Article.

ARTICLE 16

*Discharge of Debtors*

Whenever a debtor has discharged his debt as settled under the terms of the present Agreement and the Annexes thereto, he shall be deemed to have thereby also discharged all his obligations in respect of such debt as it existed before the settlement, unless such obligations have been previously extinguished by agreement.

ARTICLE 17

*Enforcement of Creditors' Rights*

(1) The Federal Republic of Germany will afford the creditor the right, within the limits of the present Agreement and the Annexes thereto, to enforce through German courts and authorities—

- (a) his rights with respect to a debt as they exist at the time when action is taken under this Article if the creditor and debtor do not agree on terms of settlement and the creditor declares his assent to the establishment by such courts of terms of payment and other conditions for his debt in accordance with the provisions of the present Agreement and the Annexes thereto;
- (b) his rights under the terms of settlement of the debt if the debtor fails to discharge his obligations in accordance with such terms (including such rights as under the provisions of the present Agreement and the Annexes thereto may be exercised by the creditor upon the failure of the debtor to discharge such obligations), except that the creditor shall not be entitled to the transfer in non-German currency of a principal sum which becomes due as a result of such failure sooner than would have been the case if the debtor had not failed to discharge such obligations.

(2) The creditor shall not be afforded the right provided under paragraph (1) of this Article if, under the provisions of the relevant contract or the present Agreement and the Annexes thereto, the dispute is, at the time that the right provided for under paragraph (1) of this Article is sought to be exercised, exclusively cognisable by an arbitral body or by a court in a creditor country. When such exclusive jurisdiction is provided by the terms of the relevant contract, the debtor and creditor may by agreement waive such a provision and the creditor shall, thereupon, be entitled to such right.

(3)—(a) Irrespective of whether there is reciprocity between the country in which the decision is rendered and the Federal Republic of Germany, the Federal Republic of Germany will afford the creditor the right, subject to the relevant qualifications contained in paragraph (1) and to the provisions of paragraph (4) of this Article, to enforce through German courts and authorities final decisions concerning a debt rendered by courts and arbitral bodies—

- (i) in a creditor country after the entry into force of the present Agreement;
- (ii) in a creditor country prior to the entry into force of the present Agreement, if the debtor does not contest the debt as established by such decision.

(b) A German court, in any other proceeding respecting a debt which has been the subject of a final decision rendered by a court or arbitral body in a creditor country prior to the entry into force of the present Agreement, shall accept as proved the facts upon which such decision was based, unless the debtor introduces evidence to the contrary. In that case the creditor shall be entitled to introduce rebutting evidence including the transcript of evidence in the former proceeding. The amount of a non-contractual pecuniary obligation established by a decision of a German court in a proceeding under this paragraph shall, for the purpose of paragraph (1) (a) of Article 4 of the present Agreement, be deemed to have been fixed at the date of the final decision of the court or arbitral body in a creditor country.

(c) The Federal Republic of Germany will afford the creditor the right, subject to the relevant qualifications contained in paragraph (1) of this Article, to enforce through German courts and authorities final decisions concerning a debt rendered by courts and arbitral bodies within Germany before 8th May, 1945, or within the territory of the currency area of the Deutsche-mark West after 8th May, 1945.

(4) German courts may refuse to enforce a decision of a foreign court or of an arbitral body (except an arbitral body established under the provisions of the present Agreement and the Annexes thereto) under the provisions of paragraph (3) of this Article in any case in which—

- (a) the court which gave the decision had no jurisdiction or the jurisdiction of the arbitral body which gave the decision was not based on the agreement of the parties concerned; or
- (b) the debtor, in the proceedings in the original court or arbitral body, was not afforded an opportunity to defend the proceedings; or
- (c) the enforcement of the decision would be contrary to public policy in the Federal Republic of Germany; provided that the fact that a judgment is not in harmony with the provisions of the present Agreement and the Annexes thereto shall not be deemed to make its enforcement, within the limits of the present Agreement and the Annexes thereto, contrary to public policy within the meaning of this provision.

(5) The Federal Republic of Germany will afford Bondholders' Councils or analogous bodies referred to in Annex I and creditors' representatives referred to in Article VIII of Annex II to the present Agreement the right to have established through German courts and authorities the terms of the offer of settlement in the event of the debtor (other than the Federal Republic of Germany) failing to make a proposal for settlement on his existing bonded debt in accordance with the relevant provisions of Annexes I and II to the present Agreement.

(6)—(a) A debtor who fails to make a proposal for settlement under Annex I or II to the present Agreement shall not, in any proceeding in a German court brought under paragraph (1), (3) or (5) of this Article, be entitled to the benefit of the provisions respecting hardship contained in paragraph 7 (1) (e) of Annex I or paragraph 11 of Article V of Annex II to the present Agreement. When establishing the terms of the offer of settlement or the terms of settlement for the debt, the court shall prescribe the earliest date of maturity which, under the provisions of the relevant Annex, may be applied in settling the debt. The court shall in its judgment award to the plaintiff the expenses referred to in paragraph 7 (h) of Annex I to the present Agreement or paragraph 2 of Article X of Annex II to the present Agreement, to be paid by the debtor; such expenses shall be immediately due and payable. The court shall also provide for payment by the debtor of the costs of the proceeding and of all reasonable costs and expenses incurred in such proceeding either by the creditor of a non-bonded debt or by the

Bondholders' Council or analogous body, or by the creditors' representative concerned in the case of a bonded debt.

(b) If a debtor fails to effect adherence in accordance with Clause 22 of Annex III to the present Agreement, the creditor concerned shall, in any proceeding brought under paragraph (1) or (3) of this Article, be entitled to enforce his rights in accordance with the provisions of the said Annex, but, in the case of a debt owed by a German Commercial or Industrial Debtor within the meaning of the said Annex (whose debt is direct to the creditor), only after the expiration of thirty days after the first meeting of the Consultative Committee provided for in Clause 17 of the said Annex. When ordering payment of the debt in accordance with the said Annex, the court shall award to the creditor the costs of the proceeding and all reasonable costs and expenses incurred by him in such proceeding, to be paid by the debtor.

(c) A debtor who fails to make a declaration of participation required under Article 14 of Annex IV to the present Agreement shall not, in any proceeding in a German court brought under paragraph (1) or (3) of this Article, be entitled to the benefit of the provisions respecting hardship contained in Article 11 of that Annex. A failure based solely upon a denial of the existence of the debt shall not deprive the debtor of such benefit; provided, however, that if the Court of Law or Court of Arbitration referred to in Article 15 of Annex IV finds that such debt exists, the debtor shall not be entitled to benefit from such clause if he fails to make the required declaration within thirty days from the date of the service of the final decision of such court. In a proceeding under this sub-paragraph in which the debtor is not entitled to benefit from the hardship clause the court shall order the payment by the debtor of court costs and all reasonable fees of the plaintiff's counsel.

(7) The Federal Republic of Germany will afford the creditor the right, within the limits of the present Agreement and the Annexes thereto, to enforce through German courts and authorities his claims against a person residing in the currency area of the Deutschemark East out of property owned by such person in the currency area of the Deutschemark West if the claims arise out of obligations which meet the requirements of Article 4 of the present Agreement except as to the residence of the debtor. The right to transfer in foreign currency any sums received by the creditor shall be subject to the foreign exchange regulations from time to time in force in the currency area of the Deutschemark West.

ARTICLE 18

*Periods of Prescription*

(1) No debtor shall be entitled to invoke against the establishment of an offer of settlement or against the settlement of a debt the expiration of a period of prescription or of a preclusive period of limitation for the assertion of any claim respecting such debt, which has not expired before 1st June, 1933, earlier than a date determined by treating the running of such respective periods as suspended from 1st June, 1933, until the expiration of eighteen months from the date on which the present Agreement and the relevant Annex thereto become applicable to such debt.

(2) Without prejudice to the provisions of paragraph (1) of this Article, periods of prescription and preclusive periods of limitation referred to in paragraph (1) which are applicable to the bonded debts specified in Sections A and B of Annex I and to those covered by Annex II to the present Agreement shall not, for the purpose of a settlement, be deemed to have expired before the respective dates on which the offer of settlement made by the debtor ceases to be open for acceptance in accordance with the provisions of paragraph 8 (b) of Annex I and of Article 15 of the present Agreement.

(3) The acceptance of an offer of settlement or an assent to a settlement by the creditor in respect of a debt in accordance with the provisions of Article 15 of the present Agreement shall effect an interruption of periods of prescription and preclusive periods of limitation for the assertion of a claim respecting such debt.

(4) The periods referred to in paragraphs (1), (2) and (3) of this Article shall not include periods for the lodging of an appeal against the decision of a court, arbitral body or an administrative authority, periods covered by Section 12, paragraph 3, of the German Law on Insurance Contracts, or periods provided by the German Laws on the Validation of Bonds.

(5) The above provisions shall apply whether the periods have been established by German or other law, by order of a court, of an arbitral body or of an administrative authority, by contract or other legal act. The Federal Republic of Germany will ensure that they are applied in German courts even though the obligation is one which, as to its content, is governed by foreign law.

## ARTICLE 19

### *Subsidiary Agreements*

(1) Agreements resulting from the negotiations provided for in—

- (a) Paragraph 11 of Annex I to the present Agreement (Græco-German Mixed Arbitral Tribunal Claims)<sup>(2)</sup>;
- (b) Paragraph 15 of Annex I to the present Agreement (Liability in respect of Austrian Governmental Debts)<sup>(3)</sup>;
- (c) Article 10 of Annex IV to the present Agreement (Payments into the Deutsche Verrechnungskasse)<sup>(4)</sup>;
- (d) Sub-Annex to Annex IV to the present Agreement (Swiss Franc Land Charges)<sup>(5)</sup>;

shall be submitted by the Government of the Federal Republic of Germany (after its approval, where appropriate) for the approval of the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

(2) Each such agreement shall enter into force, and shall be treated for all purposes as an Annex to the present Agreement, when it is approved by these Governments. A notification to this effect shall be communicated to all the Parties to the present Agreement by the Government of the United Kingdom of Great Britain and Northern Ireland.

## ARTICLE 20

### *Reich Debts owing under Multilateral Agreements*

Payments in respect of debts of the Reich or of an agency of the Reich arising out of unpaid contributions or services rendered under the terms of multilateral international agreements or of the statutes of an international organisation are not prohibited by the terms of the present Agreement. The Government of the Federal Republic of Germany will, at the request of the interested creditors, enter into direct negotiations with regard to these debts.

## ARTICLE 21

### *Renewal of Annex III Agreement*

Annex III to the present Agreement shall be treated as including any agreement or agreements which may be entered into after the date of the

(2) Not concluded.

(3) See page 349.

(4) See page 385.

(5) See page 395.



present Agreement for the purpose of renewing the agreement contained in that Annex. Any such agreement may contain modifications of the provisions of Annex III but shall be designed to establish means for the restoration of normal conditions for financing the foreign trade of the Federal Republic of Germany in accordance with the general purposes of the present Agreement:

ARTICLE 22

*Social Insurance Claims*

(1) The Government of the Federal Republic of Germany will enter into negotiations with the Governments of the creditor countries concerned, with a view to the settlement of social insurance claims arising under the German laws and regulations in force prior to 8th May, 1945, in respect of any period prior to 8th May, 1945, in so far as such claims are to be considered, under the legislation of, or in accordance with undertakings given by, the Federal Republic of Germany, as its liabilities or as liabilities of social insurance institutions in the Federal territory and have not already been dealt with in an agreement with the Government of the creditor country concerned. Nothing in this paragraph is to prevent the inclusion in such agreements of provisions to the effect that any laws or regulations in force in the Federal Republic of Germany with respect to social insurance, which provide for less favourable treatment for the nationals of other countries than for German nationals, shall not be applied.

(2) The Federal Republic of Germany will provide for the settlement of, and for the transfer in respect of, claims referred to in the preceding paragraph but not covered by agreements with Governments of creditor countries, provided such claims are due to persons who are nationals of, or reside in, a creditor country from which payments on similar claims are transferable to persons who are nationals of, or reside in, the Federal Republic of Germany. Any laws or regulations in force in the Federal Republic of Germany with respect to social insurance, which provide for less favourable treatment for the nationals of other countries than for German nationals, shall not be applied if the creditor country concerned does not discriminate in respect of social insurance payments between its nationals and German nationals or between persons residing in that country and persons residing in the Federal Republic of Germany.

(3) Claims referred to in paragraph (1) of this Article arising from social insurance services which are due to persons who are nationals of, or reside in, a creditor country and are not settled under paragraph (1) or in accordance with paragraph (2) of this Article shall be settled pursuant to the provisions of Article 28 of Annex IV to the present Agreement.

ARTICLE 23

*Insurance Debts*

(1) Where, in bilateral arrangements concluded in implementation of Article 30, paragraph (1) of Annex IV to the present Agreement, provision is made for the transfer of payments or for payment in Deutschemarks of debts arising out of insurance or reinsurance contracts or agreements of any kind, or in connexion with such contracts or agreements, such provision shall be consistent with the provisions governing the settlement of other types of debts.

(2) Where no bilateral arrangements have been concluded by 30th June, 1953, debts arising out of insurance and reinsurance contracts shall be settled pursuant to the provisions of Article 30, paragraph (2), and Article 31 respectively of Annex IV to the present Agreement. The time-limit of 30th June, 1953, may by mutual agreement be extended. The most favourable terms contained in any of the bilateral arrangements concluded under paragraph (1) of this Article for the transfer of payments or for payment in Deutschemarks of any category of debt shall be applicable to debts in the same category owed to creditors resident in countries with which bilateral arrangements will not have been concluded.

## ARTICLE 24

### *Application of Agreement to Berlin*

(1) Subject to the provisions of paragraph (2)(b) of Article 4 and of paragraph (5) of Article 5, the present Agreement shall apply to Berlin which shall, within the limits of its jurisdiction, implement undertakings corresponding to those of the Federal Republic of Germany under the present Agreement and the Annexes thereto.

(2) The present Agreement shall enter into force as to Berlin, on or after its entry into force in accordance with paragraph (2) of Article 35, when the Government of the Federal Republic of Germany deposits with the Government of the United Kingdom of Great Britain and Northern Ireland a statement that all legal procedures in Berlin necessary for the application of the present Agreement to Berlin have been complied with<sup>(6)</sup>.

## ARTICLE 25

### *Action on Reunification of Germany*

The Parties to the present Agreement will review the present Agreement on the reunification of Germany exclusively for the purpose of—

- (a) implementing the provisions of the Annexes to the present Agreement regarding adjustments to be made in respect of specific debts upon such reunification, except in so far as such provisions are to become automatically operative upon that event; and
- (b) making the provisions of the present Agreement applicable to the debts of persons residing in the area reunited with the Federal Republic of Germany; and
- (c) making equitable adjustments in respect of debts in the settlement of which consideration is given to the loss of or inability to use assets located in the area reunited with the Federal Republic of Germany.

## ARTICLE 26

### *Prior Agreements*

Nothing in the present Agreement shall be deemed to affect the validity of any Agreement, respecting the settlement of obligations, entered into by the Government of the Federal Republic of Germany before the entry into force of the present Agreement.

<sup>(6)</sup> The Agreement entered into force as to Berlin on October 5, 1953.

## ARTICLE 27

*Text of Agreement to Prevail*

In the event of any inconsistency between the provisions of the present Agreement and the provisions of any of the Annexes thereto, the provisions of the Agreement shall prevail.

## ARTICLE 28

*Arbitral Tribunal*

(1) The Arbitral Tribunal for the Agreement on German External Debts (hereinafter referred to as "the Tribunal") shall be established for the purposes hereinafter specified. The composition and organisation of the Tribunal and the rules for the exercise of its jurisdiction are contained in the Charter which is appended hereto as Annex IX.

(2) Subject to the provisions of paragraph (5) of this Article, the Tribunal shall have exclusive jurisdiction in all disputes between two or more of the Parties to the present Agreement regarding the interpretation or application of the Agreement, or the Annexes thereto, which the Parties are not able to settle by negotiation, except that any dispute respecting the interpretation or application of Article 34 of the present Agreement shall not be within the jurisdiction of the Tribunal or of any other court or tribunal. In any proceeding before the Tribunal concerning a dispute between Parties to the present Agreement, other than the Government of the Federal Republic of Germany, the said Government shall, at the request of any party to the dispute, become a party to such proceeding.

(3) The Tribunal shall have exclusive jurisdiction in proceedings concerning questions of fundamental importance for the interpretation of Annex IV to the present Agreement, referred to in the second paragraph of Article 16 of that Annex, which are submitted to it by any Party to the present Agreement. The provisions of this paragraph shall not affect the jurisdiction of the Mixed Commission as laid down in paragraph (2) of Article 31 of the present Agreement.

(4) The Tribunal shall have exclusive jurisdiction in appeals which are brought under the provisions of paragraph (7) of Article 31 of the present Agreement.

(5) Without prejudice to the provisions of paragraphs (3) and (4) of this Article, the Tribunal shall not have jurisdiction in any dispute which is concerned solely with the interpretation or application of an Annex to the present Agreement if an arbitral body established pursuant to such Annex is competent to decide the question of interpretation or application concerned. The foregoing provision shall not be deemed to limit the jurisdiction of the Tribunal in any dispute as to whether a decision of such an arbitral body is in conflict with any of the provisions of the present Agreement.

(6) Any Party to the present Agreement which is concerned in the subject-matter of a proceeding before the Tribunal shall be entitled to become a party to such proceeding.

(7) The Tribunal shall have power to decide questions as to its jurisdiction under the foregoing provisions of this Article.

(8) A decision of the Tribunal—

(a) in a proceeding under paragraph (2) of this Article shall be final and binding upon the parties to the dispute and upon any other Party to the present Agreement which becomes a party to the proceeding;

- (b) in a proceeding under paragraph (3) of this Article shall be final and binding upon the party which submitted the question to the Tribunal and upon any other party which becomes a party to the proceeding;
- (c) in an appeal under paragraph (4) of this Article shall be final and binding upon the party or parties to such appeal.

(9) The jurisdiction of the Tribunal shall not be affected by the failure of any party to a dispute to enter an appearance in the proceeding before the Tribunal.

(10) Any arbitral body, other than the Tribunal, established under the present Agreement or the Annexes thereto, shall, in reaching decisions respecting the interpretation or application of the present Agreement or the Annexes thereto, be bound by any relevant decision of the Tribunal.

(11) If any Party to the present Agreement so requests, the Tribunal shall render an advisory opinion regarding the interpretation or application of the present Agreement (except with respect to the interpretation or application of Article 34). Such advisory opinion shall not have binding effect.

## ARTICLE 29

### *Arbitration of certain Disputes under Annex I*

(1) Only Bondholders' Councils or analogous bodies, recognised by the Governments of the countries in which they are organised as representing the bondholders of such countries (hereinafter referred to as "creditors' representatives"), on the one hand, and debtors, on the other hand, shall be entitled to be parties to proceedings before a Court of Arbitration provided for the decision of disputes falling under Section 7 (1) (g) of Annex I to the present Agreement.

(2) A Court of Arbitration described in the preceding paragraph shall, except as otherwise agreed between the parties, consist of three members appointed as follows:—

- (a) one member to be appointed by the debtor;
- (b) one member to be appointed by the creditors' representative concerned and, if more than one, by such creditors' representatives jointly;
- (c) a third member, to act as Chairman, to be chosen by the arbitrators appointed in accordance with sub-paragraphs (a) and (b) of this paragraph. The Chairman shall be neither a German national nor a national of a country in which a creditors' representative, party to the proceeding, is organised.

(3) Within ninety days of the date on which one of the parties to the proceeding notifies the other party of the appointment of its arbitrator, such other party shall appoint its arbitrator. If such other party fails to appoint its arbitrator within the time prescribed, such arbitrator shall, upon the application of the party which has given notice as aforesaid, be appointed by the International Chamber of Commerce.

(4) If the two arbitrators fail, within thirty days of the date of the appointment of the arbitrator last appointed, to agree upon a Chairman, he shall, at the request of either of the two arbitrators, be appointed by the International Chamber of Commerce. The qualification as to nationality provided in paragraph (2) (c) of this Article shall apply to such appointment.

(5) In the event of any vacancy caused by the death, illness, withdrawal or failure of a member of a Court of Arbitration to carry out his duties, such vacancy shall be filled, in the same manner as the original appointment, within thirty days of the occurrence of such vacancy.

(6) A Court of Arbitration shall determine its own rules of procedure. In the absence of such determination, or in respect of matters not covered by such determination, the Arbitration Code of the International Chamber of Commerce shall apply.

(7) The decision of a Court of Arbitration as to the conversion which is the subject of the arbitration proceeding shall be binding on the parties to the proceeding as to the terms of the offer of settlement and the creditors' representative shall recommend to the bondholders the acceptance of the offer, provided that such offer meets the other requirements laid down in Annex I to the present Agreement.

## ARTICLE 30

### *Trustees' Position in relation to Annex II and Arbitration thereunder*

(1) The Arbitration and Mediation Committee established pursuant to Article IX of Annex II to the present Agreement shall serve notice upon the trustee of a bonded debt to which the said Annex applies of any proceeding concerning the settlement of such debt which is pending before it. The trustee may, within twenty days after the service of such notice, become a party to such proceeding.

(2) In order to assist the trustee of a bonded debt in the discharge of any responsibilities which such trustee may have to holders of such debt, the debtor, at the time it submits to the creditors' representative any proposed offer of settlement pursuant to Article VII of Annex II to the present Agreement shall likewise submit a copy thereof to the trustee of such debt. The trustee may communicate to the debtor and to the creditors' representative any objection which it may have to the terms of the offer under negotiation, which objection shall be submitted for consideration in such negotiations.

(3) Prior to entering into any definitive agreement with the creditors' representative on the terms of the offer of settlement the debtor shall notify the trustee in writing of the terms of such offer of settlement. Within ten days after receipt of such notice the trustee shall have the right to refer to the Arbitration and Mediation Committee any objection which such trustee may have to the terms of the offer of settlement regarding any matter in respect of which, under the terms of the existing indenture, the trustee shall determine, in the exercise of its discretion, that it has responsibility to holders of such bonded debt. The Arbitration and Mediation Committee shall serve notice upon the creditors' representative and the debtor of the institution of such proceeding. The creditors' representative and the debtor may also become parties to the proceeding by entering an appearance within twenty days after the service of such notice. The jurisdiction of the Arbitration and Mediation Committee with respect to such proceeding shall not be affected by the failure of the creditors' representative or of the debtor to enter an appearance in such proceeding. If there is no reference to arbitration within the ten-day period provided for above, the debtor may enter into the proposed agreement with the creditors' representative.

(4) A decision of the Arbitration and Mediation Committee in a proceeding pursuant to paragraph (3) of this Article shall be binding upon the creditors' representative and the debtor to the same extent as is provided in the second sub-paragraph of paragraph 1 of Article IX of Annex II to the present Agreement. In any proceeding to which a trustee becomes a party pursuant to paragraph (1) or (3) of this Article, such trustee shall have the same rights as any other party thereto.

## ARTICLE 31

### *Mixed Commission for Questions respecting Annex IV*

(1) The composition and organisation of the Mixed Commission provided for in Article 16 of Annex IV to the present Agreement and the rules for the exercise of its jurisdiction are contained in the Charter which is appended hereto as Annex X.

(2) The Mixed Commission shall have jurisdiction in—

(a) differences between a creditor and a debtor as to the interpretation of Annex IV to the present Agreement, referred to it either by a creditor and a debtor jointly, or by a creditor or a debtor whose Government states that in its opinion the question at issue is of general importance for the interpretation of the said Annex;

(b) cases referred to it under Article 16 of Annex IV to the present Agreement from a Court of Arbitration established pursuant to Article 17 of that Annex, by a Party to the present Agreement or by the said Court of Arbitration, on the ground that such cases are of fundamental importance to the interpretation of Annex IV, provided that in any case before the said Court of Arbitration which is an appeal under Article 11 of Annex IV, only the question in such case which is of fundamental importance to the interpretation of that Annex shall be referred to the Mixed Commission for decision.

(3) Any Party to the present Agreement which is concerned in the subject-matter of a proceeding before the Mixed Commission shall be entitled to become a party to such proceeding.

(4) The jurisdiction of the Mixed Commission shall not be affected by the failure of any party to a dispute to enter an appearance in the proceeding before the Mixed Commission.

(5) The Mixed Commission shall have power to decide questions as to its jurisdiction under the foregoing provisions of this Article.

(6) Subject to the provisions of paragraph (7) of this Article a decision of the Mixed Commission shall be final and binding—

(a) upon the parties to any proceeding before it;

(b) upon any party to a dispute referred to the Mixed Commission under paragraph (2) (a) of this Article;

(c) upon a Party to the present Agreement which submits a case or question for decision under paragraph (2) (b) of this Article;

(d) upon a Court of Arbitration by or from which a question is referred under paragraph (2) (b) of this Article;

(e) if a term of settlement of a debt was the subject of the proceeding, in respect of such term of settlement.

(7) A Party to the present Agreement shall be entitled to appeal from a decision of the Mixed Commission to the Tribunal within thirty days of the date of the delivery of the decision on the ground that such decision concerns a matter of general or fundamental importance. The appeal shall be brought only with respect to any matter in such decision which is asserted by the appellant to be of general or fundamental importance. When the Tribunal has rendered its decision with respect to any such matter the Mixed Commission shall take any action in connexion with the proceeding giving rise to the appeal which may be necessary to give effect to such decision.

## ARTICLE 32

### *Courts of Arbitration for Disputes under Annex IV*

(1) A creditor and a debtor who, pursuant to the fifth paragraph of Article 17 of Annex IV to the present Agreement, have agreed to refer a

dispute to a Court of Arbitration shall each appoint an arbitrator within thirty days of the date of such agreement. If there is more than one creditor or more than one debtor the arbitrator shall be appointed by such creditors or debtors jointly. If an arbitrator is not appointed within the above time-limit, the other parties to the dispute shall be entitled to request the International Chamber of Commerce to appoint such arbitrator. The two arbitrators shall, within thirty days from the date of the appointment of the arbitrator last appointed, choose a third arbitrator to act as Chairman. If a Chairman is not chosen within such time, either party may request the International Chamber of Commerce to make the appointment.

(2)—(a) A creditor who, pursuant to the second paragraph of Article 11 of Annex IV to the present Agreement, appeals to a Court of Arbitration, shall within thirty days of service of the decision of the German court—

- (i) notify the German Court which rendered the decision of such appeal;
- (ii) notify the debtor of the name of the arbitrator he has appointed to sit on the Court of Arbitration.

(b) The receipt of the notice provided in sub-paragraph (a) (i) of this paragraph shall put an end to all proceedings in German courts in respect of the decision, in so far as it relates to the debt which is the subject of the appeal and such decision to this extent shall have no effect.

(c) Within thirty days of the receipt of the notice provided in sub-paragraph (a) (ii) of this paragraph, the debtor shall notify the creditor of the name of the arbitrator he has appointed to sit on the Court of Arbitration. If the debtor does not make such notification within the time prescribed the creditor shall be entitled to request the International Chamber of Commerce to appoint such arbitrator. A third arbitrator, to act as Chairman, shall be chosen in accordance with the procedure provided in paragraph (1) of this Article.

(d) A Court of Arbitration, which is hearing an appeal under the provisions of the second paragraph of Article 11 of Annex IV to the present Agreement, shall—

- (i) sit at a place within the Federal Republic of Germany, unless the parties to the proceedings agree otherwise;
- (ii) apply the principles laid down in the first paragraph of Article 11 of Annex IV to the present Agreement;
- (iii) conduct such proceedings as a new trial.

(e) If, in the course of any appeal to a Court of Arbitration under the provisions of the second paragraph of Article 11 of Annex IV to the present Agreement, a question is referred to the Mixed Commission under paragraph (2) (b) of Article 31 of the present Agreement, the Court of Arbitration shall forthwith suspend the proceeding in such appeal until the final decision of the Mixed Commission respecting such question has been rendered. When such decision is rendered the Court of Arbitration shall resume the proceeding and shall take any action which may be necessary to give effect to such decision.

(3) A Court of Arbitration shall, in reaching decisions respecting the interpretation of Annex IV to the present Agreement, be bound by any relevant decision of the Mixed Commission.

(4) In the event of any vacancy caused by the death, illness, withdrawal or failure of a member of a Court of Arbitration to carry out his duties, such vacancy shall be filled, in the same manner as the original appointment, within thirty days of the occurrence of such vacancy.

(5) A Court of Arbitration may determine the manner in which the costs of the proceeding, including counsel's fees, are to be borne and, in an appeal

under paragraph (2) of this Article, which party shall bear the costs of the proceeding in the German Court or how such costs should be apportioned between the parties. In the absence of such determination each party to the proceeding shall bear its own costs; the costs in the Court of Arbitration and, if applicable, the costs in the German Court, shall be borne as to the one half by the creditor or creditors and as to the other half by the debtor or debtors.

(6) A proceeding pending before a Court of Arbitration may be withdrawn only with the consent of all parties thereto.

(7) Subject to the provisions of this Article and of Article 17 of Annex IV to the present Agreement, a Court of Arbitration shall determine its own rules of procedure. In the absence of such determination, or in respect of matters not covered by such determination, the Arbitration Code of the International Chamber of Commerce shall apply.

(8) The decision of a Court of Arbitration in any proceeding shall be final and binding upon the parties thereto.

### ARTICLE 33

#### *Matters arising in Deconcentration Proceedings*

Matters of which disposition is specifically made in a plan approved, or an order or regulation issued, by the Allied High Commission or any of its subordinate agencies designated by it to act with respect to such matters, or any agency succeeding to the powers of the Allied High Commission with respect thereto, under Allied High Commission Laws No. 27 (Reorganisation of German Coal and Iron and Steel Industries) and No. 35 (Dispersion of Assets of I.G. Farbenindustrie A.G.) shall not be heard by the Tribunal or by any other arbitral body established under the present Agreement and the Annexes thereto. In any such disposition the creditor and debtor, the Allied authorities and the Board of Review shall apply the provisions of the present Agreement and the Annexes thereto. Before any plan can be approved or any order or regulation issued disposing of any matter which is in dispute by reason of a question of interpretation or application of the provisions of the present Agreement or the Annexes thereto, such dispute shall be referred to and be decided by the Tribunal or other arbitral body which is competent under the present Agreement and the Annexes thereto. The competence of the Tribunal or of any other arbitral body established under the present Agreement or the Annexes thereto with respect to matters which are not specifically disposed of under a plan, order or regulation as aforesaid or which arise by reason of events subsequent to the entry into effect of such plan, order or regulation shall not be affected by the preceding provisions of this Article.

### ARTICLE 34

#### *Consultation*

In the interest of the continuing and effectual carrying out of the present Agreement and the Annexes thereto to the satisfaction of all parties concerned, and without derogating from the obligations which the Federal Republic of Germany has assumed—

(a) consultations will be held between the Parties to the present Agreement principally concerned, if the Government of the Federal Republic



of Germany or the Government of any of the creditor countries holding a substantial share of the debts covered by this Agreement so requests. Any Party to the present Agreement shall have the right to participate in these consultations, and if it participates it may invite representatives of the interested creditors or debtors of its country to attend;

- (b) if the consultations are concerned with a situation in which the Federal Republic of Germany finds that it is faced with difficulties in carrying out its external obligations, attention shall be given to all relevant economic, financial and monetary considerations which relate to the ability to transfer of the Federal Republic of Germany, as influenced by both internal and external factors, and which relate to the continuing fulfilment by the Federal Republic of its obligations under the present Agreement and the Annexes thereto and under the Agreements concerning post-war economic assistance. Due regard will be paid to the principles by which the Conference on German External Debts was guided, to the objectives at which it aimed and to the undertaking of the Government of the Federal Republic of Germany to do everything in its power to ensure the fulfilment of these obligations. Advice shall, if the principal consulting Parties to the present Agreement so decide, be sought from appropriate international organisations or other independent experts. A request for such advice may be made by the Federal Republic of Germany or by any of the Parties to the present Agreement principally concerned.

ARTICLE 35

*Entry into Force*

(1) Each of the Governments signatory to the present Agreement shall, after having ratified or approved the Agreement in accordance with its constitutional requirements, deposit with the Government of the United Kingdom of Great Britain and Northern Ireland an instrument of ratification or a notification that the Agreement has been approved.

(2) The present Agreement shall enter into force immediately upon the deposit by the Government of the Federal Republic of Germany and the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America with the Government of the United Kingdom of Great Britain and Northern Ireland of the instrument of ratification<sup>(7)</sup> or of the notification required under paragraph (1) of this Article. Such entry into force shall be effective as to all Governments signatory to the Agreement which have at that time deposited the required instrument of ratification or notification. The Government of the United Kingdom of Great Britain and Northern Ireland shall notify each of the Governments signatory to the Agreement of the date of its entry into force and of the Governments in respect of which it enters into force.

(3) The date of the entry into force of the present Agreement in respect of any signatory Government which deposits the required instrument of ratification or notification after the entry into force of the Agreement under the preceding paragraph shall be the date of such deposit. The Government of the United Kingdom of Great Britain and Northern Ireland shall notify the other signatory Governments, and any Government which has acceded to the present Agreement under Article 36, of such deposit and the date thereof.

(7) September 16, 1953.

**ACCORD SUR LES DETTES EXTERIEURES ALLEMANDES**

*Londres, le 27 fevrier, 1953*

Les Gouvernements des Etats-Unis d'Amérique, de la Belgique, du Canada, de Ceylan, du Danemark, de l'Espagne, de la République Française, du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, de la Grèce, de l'Iran, de l'Irlande, de l'Italie, du Liechtenstein, du Luxembourg, de la Norvège, du Pakistan, de la Suède, de la Suisse, de l'Union de l'Afrique du Sud et de la Yougoslavie

d'une part,

et

le Gouvernement de la République Fédérale d'Allemagne

d'autre part

Désireux d'écartier tout obstacle aux relations économiques normales entre la République Fédérale d'Allemagne et les autres pays, et de contribuer ainsi au développement d'une communauté prospère de nations;

Considérant que depuis une vingtaine d'années les paiements sur les dettes extérieures allemandes n'ont pas, en général, été effectués conformément aux termes des contrats; que de 1939 à 1945 l'état de guerre a empêché tout paiement au titre d'une grand nombre de ces dettes; que depuis 1945 ces paiements ont en général été suspendus, et que la République Fédérale d'Allemagne est désireuse de mettre fin à cette situation;

Considérant que les Etats-Unis d'Amérique, la France et le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord ont, depuis le 8 mai 1945, fourni à l'Allemagne une assistance économique qui a notablement contribué à la reconstruction de l'économie allemande, et a eu pour effet de faciliter une reprise des paiements sur les dettes extérieures allemandes;

Considérant qu'un échange de lettres (dont copie est jointe en Appendice A au présent Accord), est intervenu le 6 mars 1951 entre les Gouvernements des Etats-Unis d'Amérique, de la République Française et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord d'une part, et le Gouvernement de la République Fédérale d'Allemagne d'autre part, et que cet échange constitue la base sur laquelle ont été établis le présent Accord sur le règlement des dettes extérieures allemandes (et ses Annexes), ainsi que les Accords sur le règlement des dettes résultant de l'assistance économique fournie à l'Allemagne;

Considérant que les Gouvernements des Etats-Unis d'Amérique, de la République Française et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord ont institué une Commission, dénommée Commission Tripartite des Dettes Allemandes, afin de préparer et d'élaborer avec le Gouvernement de la République Fédérale d'Allemagne, avec d'autres Gouvernements intéressés et avec des représentants des créanciers et des débiteurs, un plan de règlement général et méthodique des dettes extérieures allemandes;

Considérant que cette Commission a fait savoir aux représentants du Gouvernement de la République Fédérale d'Allemagne que les Gouvernements des Etats-Unis d'Amérique, de la République Française et du Royaume-Uni de Grand-Bretagne et d'Irlande du Nord étaient prêts à consentir d'importantes concessions sur la priorité de leurs créances relatives à l'assistance économique d'après-guerre par rapport à toutes les autres

créances extérieures sur l'Allemagne et ses ressortissants, et quant au montant total de ces créances, à condition que soit réalisé un règlement équitable et satisfaisant des dettes extérieures d'avant-guerre de l'Allemagne;

Considérant qu'un tel règlement des dettes extérieures allemandes ne pouvait être obtenu que grâce à un plan général unique qui tiendrait compte de la position relative des intérêts des divers créanciers, de la nature des diverses catégories de créances et de la situation générale de la République Fédérale d'Allemagne;

Considérant que pour atteindre ce but, une Conférence internationale des dettes extérieures allemandes, à laquelle participaient des représentants de Gouvernements intéressés ainsi que des créanciers et des débiteurs, a siégé à Londres du 28 février au 8 août 1952;

Considérant que ces représentants ont approuvé des recommandations sur les modalités et les procédures de règlement (dont le texte est reproduit dans les Annexes I à VI au présent Accord); que ces recommandations étaient annexées au Rapport de la Conférence des Dettes Extérieures allemandes (dont le texte est reproduit en Appendice B au présent Accord); et que le présent Accord s'inspire des principes et tend à atteindre les objectifs exposés dans ce Rapport;

Considérant que les Gouvernements des Etats-Unis d'Amérique, de la République Française et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, ayant estimé que ces recommandations constituent un plan équitable et satisfaisant de règlement des dettes extérieures allemandes, ont signé ce jour avec le Gouvernement de la République Fédérale d'Allemagne des accords bilatéraux sur le règlement des dettes au titre de l'assistance économique fournie par ces trois Gouvernements après la guerre, accords qui définissent leurs droits et priorités modifiés au titre de ces dettes,  
Sont convenus de ce qui suit:

#### ARTICLE 1

##### *Approbation des modalités et procédures de règlement*

Les Parties Contractantes considèrent que les dispositions du présent Accord et de ses Annexes sont raisonnables compte tenu de la situation générale de la République Fédérale d'Allemagne et sont équitables et satisfaisantes pour les intérêts en cause. Elles approuvent les modalités et les procédures de règlement contenues dans les Annexes à cet Accord.

#### ARTICLE 2

##### *Mesures d'exécution incombant à la République Fédérale d'Allemagne*

La République Fédérale d'Allemagne promulguera les lois et prendra les mesures réglementaires et administratives nécessaires pour donner effet au présent Accord et à ses Annexes, et modifiera ou abrogera les lois ainsi que les mesures réglementaires et administratives incompatibles avec leurs dispositions.

#### ARTICLE 3

##### *Définitions*

Aux fins du présent Accord et de ses Annexes IX et X seulement, et à moins que le contexte ne l'exige autrement:

- (a) le terme "créancier" désigne toute personne (autre que le Gouvernement de la République Fédérale d'Allemagne) à qui une dette est due;
- (b) les termes "pays créancier" désignent tout pays, autre que la République Fédérale d'Allemagne, dont le Gouvernement est Partie au présent Accord, et s'applique à tout territoire auquel le présent Accord est étendu au titre de l'Article 37;

- (c) les termes "option de change" désignent toute clause contractuelle donnant au créancier le droit d'exiger un paiement dans l'une quelconque de deux ou de plusieurs monnaies;
- (d) le terme "dette" désigne toute dette répondant aux conditions posées à l'Article 4;
- (e) le terme "liquide", s'agissant d'une dette, signifie que le montant de celle-ci a été déterminé par un accord, une décision judiciaire ou arbitrale définitive ou par une disposition légale;
- (f) les termes "valeurs mobilières négociables" désignent les actions, obligations et fonds d'Etat, émis par souscription publique ou appartenant à une émission qui est ou a été négociée sur un marché de valeurs reconnu;
- (g) les termes "offres de règlement" utilisés à propos d'une dette obligataire, désignent l'offre par le débiteur de modalités de paiement et autres conditions établies pour la dette en cause, conformément aux dispositions du présent Accord et de ses Annexes, par négociation entre le débiteur et les représentants habilités des créanciers ou par une décision judiciaire ou arbitrale définitive;
- (h) les termes "Partie Contractante" désignent tout Gouvernement au regard duquel le présent Accord est entré en vigueur conformément aux dispositions de son Article 35 ou de son Article 36;
- (i) le terme "personne" désigne toute personne physique ou morale, de droit public ou privé, et tout Gouvernement ainsi que toute circonscription politique, tout établissement public y compris toute agence ou service en dépendant et toute personne agissant en leur nom;
- (j) les termes "résider" et "résidant" s'entendent de la résidence habituelle; une personne morale sera censée résider dans le pays sous les lois duquel elle est constituée ou, si son siège social n'est pas dans ce pays, dans le pays où il est situé;
- (k) les termes "modalités de règlement établies", s'agissant d'une dette, désignent les modalités de paiement et autres conditions établies pour cette dette conformément aux dispositions du présent Accord et de ses Annexes, soit par accord entre le créancier et le débiteur, soit par une décision judiciaire ou arbitrale définitive dans une instance entre le créancier et le débiteur;
- (l) les termes "établissement de modalités de règlement", s'agissant d'une dette, désignent l'établissement de modalités de paiement et autres conditions conformément au paragraphe (k).

#### ARTICLE 4

##### *Dettes à régler*

(1) Les dettes à régler au titre du présent Accord et de ses Annexes sont les suivantes :

- (a) obligations pécuniaires non contractuelles devenues liquides et exigibles avant le 8 mai 1945;
- (b) obligations pécuniaires, nées de contrats de prêt ou de crédit conclus avant le 8 mai 1945;
- (c) obligations pécuniaires, nées de contrats autres que de prêt ou de crédit, devenues exigibles avant le 8 mai 1945;

(2) A condition que ces dettes :

- (a) soient visées par l'Annexe I au présent Accord, ou
- (b) soient dues par une personne, comme débiteur principal ou à un autre titre, comme débiteur originel ou comme ayant-cause, qui réside dans la zone monétaire du Deutschemark-Ouest au moment où une

proposition est présentée par le débiteur ou une demande est faite par le créancier en vue de l'établissement de modalités de règlement ou, dans le cas des dettes obligataires justiciables de cette procédure, au moment où une demande en vue d'une offre de règlement est faite par le représentant des créanciers, au titre du présent Accord et de ses Annexes;

- (3) A condition également que ces dettes :
  - (a) soient dues au Gouvernement d'un pays créancier, ou
  - (b) soient dues à une personne qui réside dans un pays créancier, ou a la qualité de ressortissant d'un tel pays au moment où une proposition est présentée par le débiteur ou une demande est faite par le créancier en vue de l'établissement de modalités de règlement au titre du présent Accord et de ses Annexes, ou
  - (c) soient dues au titre de valeurs mobilières négociables payables dans un pays créancier.

## ARTICLE 5

### *Créances exclues du présent Accord*

(1) L'examen des créances gouvernementales à l'encontre de l'Allemagne issues de la première guerre mondiale sera différé jusqu'à un règlement général définitif de cette question.

(2) L'examen des créances issues de la deuxième guerre mondiale des pays qui ont été en guerre avec l'Allemagne ou ont été occupés par elle au cours de cette guerre, et des ressortissants de ces pays, à l'encontre du Reich et des agences du Reich, y compris le coût de l'occupation allemande, les avoirs en compte de clearing acquis pendant l'occupation et les créances sur les Reichskreditkassen, sera différé jusqu'au règlement définitif du problème des Réparations.

(3) L'examen des créances nées au cours de la deuxième guerre mondiale des pays qui n'ont pas été en guerre avec l'Allemagne, ni occupés par elle au cours de cette guerre, et des ressortissants de ces pays, à l'encontre du Reich et des agences du Reich, y compris les avoirs acquis en compte de clearing, sera différé jusqu'à ce que le règlement de ces créances puisse être étudié en liaison avec le règlement des créances visées au paragraphe (2) du présent Article (sauf dans la mesure où elles pourraient être réglées sur la base des accords qui ont été signés par les Gouvernements des Etats-Unis d'Amérique, de la République Française et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, et le Gouvernement d'un de ces pays, ou en relation avec ces accords).

(4) Les créances à l'encontre de l'Allemagne ou des ressortissants allemands des pays qui ont été incorporés au Reich avant le 1<sup>er</sup> septembre 1939, ou qui étaient les Alliés du Reich le 1<sup>er</sup> septembre 1939 ou après cette date, et des ressortissants de ces pays, lorsque ces créances résultent d'obligations contractées ou de droits acquis entre la date d'incorporation (ou, dans le cas des Alliés du Reich, le 1<sup>er</sup> septembre 1939) et le 8 mai 1945, seront traitées conformément aux dispositions prises ou à prendre dans les traités appropriés. Dans la mesure où de telles dettes pourront, aux termes de ces traités, faire l'objet d'un règlement, les dispositions du présent Accord seront applicables.

(5) Le règlement des dettes de la Ville de Berlin et des services publics appartenant à Berlin ou contrôlés par lui et situés à Berlin sera différé jusqu'au moment où les Gouvernements des Etats-Unis d'Amérique, de la République Française et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, le Gouvernement de la République Fédérale allemande et le Sénat de Berlin estimeront qu'il est possible d'ouvrir des négociations pour le règlement de ces dettes.

ARTICLE 6

*Paiements et transferts au titre du présent Accord*

La République Fédérale d'Allemagne

- (a) effectuera, conformément aux dispositions du présent Accord et de ses Annexes, les paiements et les transferts afférents aux dettes qui lui incombent au titre de cet Accord et de ses Annexes;
- (b) autorisera l'établissement de modalités de règlement et le paiement, conformément aux dispositions du présent Accord et de ses Annexes, des dettes incombant à une personne autre que la République Fédérale d'Allemagne, et assurera le transfert, conformément aux dispositions du présent Accord et de ses Annexes, des paiements effectués sur les dettes dont les modalités de règlement auront été ainsi établies.

ARTICLE 7

*Paiements et transferts au titre de certaines obligations devenues exigibles après 1945*

La République Fédérale d'Allemagne autorisera le paiement des obligations subsistant à la date de l'entrée en vigueur du présent Accord, et autorisera leur transfert dans un délai raisonnable, s'il y a lieu à transfert compte tenu des dispositions appropriées du présent Accord et de ses Annexes, à condition qu'il s'agisse :

- (a) d'obligations pécuniaires non contractuelles nées avant le 8 mai 1945, mais qui n'étaient pas liquides et exigibles avant le 8 mai 1945 ou
- (b) d'obligations pécuniaires découlant de contrats, autres que de prêt ou de crédit, nées avant le 8 mai 1945 mais devenues exigibles le 8 mai 1945 ou après cette date,

et sous réserve que ces obligations satisfassent aux conditions posées par les paragraphes (2) et (3) de l'Article 4.

ARTICLE 8

*Interdiction de tout traitement discriminatoire*

La République Fédérale d'Allemagne n'autorisera, et les pays créanciers ne chercheront à obtenir de la République Fédérale, ni dans l'exécution de modalités de règlement établies conformément aux dispositions du présent Accord et de ses Annexes, ni autrement, aucune discrimination ou traitement préférentiel entre les diverses catégories de dettes ou selon les monnaies dans lesquelles les dettes doivent être payées ou à tout autre égard. Les différences de traitement entre les diverses catégories de dettes résultant de l'établissement de modalités de règlement conformes aux dispositions du présent Accord et de ses Annexes ne seront pas considérées comme constituant une discrimination ou un traitement préférentiel.

ARTICLE 9

*Traitement des transferts comme des paiements courants*

Les transferts des paiements d'intérêt et d'amortissement effectués au titre du présent Accord seront traités comme des paiements courants; des dispositions à cet effet seront prises, s'il y a lieu, dans tout accord de paiement ou de commerce, bilatéral ou multilatéral, conclu entre la République Fédérale d'Allemagne et les pays créanciers.

## ARTICLE 10

### *Limitations aux paiements*

Le République Fédérale d'Allemagne prendra les mesures nécessaires pour assurer, jusqu'à l'exécution ou l'extinction de toutes les obligations résultant du présent Accord et de ses Annexes, qu'aucun paiement ne sera fait au titre des obligations qui, répondant aux conditions posées dans les paragraphes (1) et (2) de l'Article 4, sont dues à un Gouvernement autre que celui d'un pays créancier ou à une personne n'ayant pas la qualité de résident ou de ressortissant d'un pays créancier, et qui sont ou étaient payables en monnaie non allemande. La présente disposition ne s'applique pas aux dettes dues au titre de valeurs mobilières négociables payables dans un pays créancier.

## ARTICLE 11

### *Monnaies de paiement*

(1)—(a) Sauf disposition contraire des Annexes au présent Accord, les dettes sans option de change seront payées dans la monnaie dans laquelle elles sont payables aux termes de l'obligation du débiteur. Si ces dettes sont exprimées en monnaie allemande et doivent, aux termes des Annexes au présent Accord, être payées dans une monnaie non allemande, elles seront payées dans la monnaie du pays de résidence du créancier.

(b) Nonobstant les dispositions de l'alinéa précédent, tout accord de paiement en vigueur entre le Gouvernement de la République Fédérale d'Allemagne et le Gouvernement d'un pays créancier s'appliquera aux dettes qui, aux termes de cet alinéa, doivent être payées en une monnaie non allemande à des résidents de ce pays. Un tel accord de paiement, toutefois, ne s'appliquera aux dettes obligataires payables dans une monnaie non allemande autre que celle du pays partie à cet accord que si le Gouvernement de ce pays accepte que de tels paiements soient effectués dans sa propre monnaie aux personnes résidant sur son territoire.

(2)—(a) La question de savoir si les paiements afférents à des dettes avec option de change pourront continuer d'être demandés dans une monnaie autre que celle du pays où l'emprunt a été souscrit ou le crédit obtenu sera décidée selon des modalités à convenir entre le Gouvernement de la République Fédérale d'Allemagne et les Gouvernements des pays dont les monnaies sont en cause.

(b) Lorsque'une option de change prévoit le paiement d'un montant déterminé d'une monnaie subsidiaire, le créancier sera en droit de recevoir, dans la monnaie du pays où l'emprunt a été souscrit ou le crédit obtenu, la contre-valeur, sur la base du taux de change en vigueur à la date d'échéance du paiement, du montant qui aurait été payable dans la monnaie subsidiaire si l'option avait été exercée.

(c) Les paiements afférents à des dettes avec option de change qui auraient été faits avant la décision prévue à alinéa (a) du présent paragraphe dans la monnaie du pays où l'emprunt a été souscrit ou le crédit obtenu, ne seront pas affectés par cette décision.

(3) Les dispositions des paragraphes (1) et (2) du présent Article ne s'appliquent pas aux dettes visées par les paragraphes 2 et 3 de l'Annexe I au présent Accord.

(4) Tout accord de paiement en vigueur entre le Gouvernement de la République Fédérale d'Allemagne et le Gouvernement d'un pays créancier s'appliquera aux paiements afférents aux dettes qui font l'objet des dispositions des paragraphes (2) et (3) du présent Article, à condition que ces paiements soient exigibles dans la monnaie du pays créancier.

(5) Dans le cas où la dette est née des opérations commerciales effectuées par une succursale du créancier et où il était prévu que le paiement serait effectué dans le pays où cette succursale est située, ce pays sera considéré comme pays créancier au sens du présent Article.

ARTICLE 12

*Traitement des clauses-or*

Pour l'établissement des modalités de règlement et pour le paiement de toute dette exprimée en monnaie non allemande sur une base or ou avec une clause-or, le montant à payer sera, sauf disposition particulière contraire des Annexes au présent Accord, déterminé comme suit :

- (a) le montant à payer au titre d'une dette qui, aux termes de l'obligation existant au moment de l'établissement des modalités de règlement, est exprimée ou payable en dollars des Etats-Unis ou en francs suisses sur une base or ou avec une clause-or, sera déterminé sans égard à cette base or ou à cette clause-or. Tout nouveau contrat conclu entre le créancier et le débiteur au sujet d'une telle dette sera exprimé en dollars des Etats-Unis ou en francs suisses, sans référence à la valeur de la monnaie en cause par rapport à l'or, et ne contiendra pas de clause-or;
- (b) le montant à payer au titre d'une dette qui, aux termes de l'obligation existant au moment de l'établissement des modalités de règlement, est exprimée ou payable dans une autre monnaie non allemande sur une base or ou avec une clause-or sera déterminé comme suit :
  - (i) la contre-valeur en dollars des Etats-Unis du montant nominal exigible sera calculée sur la base du taux de change en vigueur à la date à laquelle l'obligation a été contractée ou, s'il s'agit d'une dette obligataire, en vigueur à la date d'émission des obligations;
  - (ii) le montant en dollars ainsi obtenu sera converti dans la monnaie dans laquelle l'obligation doit être payée conformément aux dispositions de l'Article 11, sur la base du taux de change entre le dollar des Etats-Unis et cette monnaie en vigueur à la date à laquelle le montant payable est exigible; toutefois, au cas où ce taux de change serait moins favorable pour le créancier que le taux de change du 1er août 1952 entre le dollar des Etats-Unis et cette monnaie, la conversion sera faite sur la base du taux de change en vigueur le 1er août 1952.

ARTICLE 13

*Taux de change*

Lorsque le présent Accord et ses Annexes prévoient qu'un montant doit être calculé sur la base d'un taux de change, ce taux sera, sauf dans les cas prévus par l'Annexe III et l'Article 8 de l'Annexe IV au présent Accord :

- (a) celui déterminé par les parités des monnaies en cause en vigueur à la date considérée, telles qu'elles ont été convenues avec le Fonds Monétaire International au titre de l'Article IV, Section 1 du Statut du Fonds Monétaire International; ou
- (b) si aucune parité n'est ou n'était en vigueur à la date considérée, le taux de change convenu pour les paiements courants dans un accord bilatéral de paiement entre les Gouvernements intéressés ou leurs autorités monétaires; ou



- (c) si aucune parité ni aucun taux de change convenu dans un accord bilatéral de paiement ne sont ou n'étaient en vigueur à la date considérée, le taux moyen des changes applicable à la généralité des transactions, en vigueur, pour les transferts télégraphiques dans la monnaie du pays où le paiement doit être fait, sur le principal marché des changes de l'autre pays à la date considérée ou à la dernière date de cotation antérieure; ou
- (d) s'il n'existe ou n'existait à la date considérée aucun taux de change déterminé selon les dispositions des paragraphes (a), (b), et (c), le taux obtenu à partir des taux moyens des changes en vigueur pour les monnaies en question sur le principal marché des changes d'un pays tiers effectuant des transactions dans ces monnaies, à la date considérée ou à la dernière date de cotation antérieure.

#### ARTICLE 14

##### *Dispositions relatives à certaines dettes exprimées en monnaie allemande*

(1) La République Fédérale d'Allemagne prendra, à l'égard des dettes en Reichsmark dont elle a assumé ou pourrait assumer la responsabilité et qui ne sont pas visées au paragraphe 6 de l'Annexe I au présent Accord, des mesures analogues à celles qui sont prévues par ce paragraphe.

(2) Par application du principe du traitement national, la République Fédérale d'Allemagne prendra également les mesures nécessaires pour assurer que les dettes au titre d'obligations en Reichsmark, autres que les dettes en mark-or ayant un caractère spécifiquement étranger, qui étaient dues le 21 juin 1948 à des personnes ayant à cette date la qualité de ressortissants d'un pays créancier ou de résidents dans un tel pays, et dont le paiement ne peut aux termes des lois et règlements en vigueur dans la zone monétaire du Deutschemark-Ouest être exigé que dans la limite d'une certaine quote-part, recevront application du même traitement que les obligations analogues envers des personnes résidant dans la zone monétaire du Deutschemark-Ouest.

(3) Lors du règlement des autres dettes payables en monnaie allemande et dues à des ressortissants de pays créanciers résidant dans la zone monétaire du Deutschemark-Ouest, les modalités appliquées ne pourront être moins favorables que celles applicables aux obligations analogues envers toute personne résidant dans la même zone.

#### ARTICLE 15

##### *Assentiment des créanciers*

(1) Seront seuls en droit de bénéficier des dispositions du présent Accord et de ses Annexes et de recevoir des paiements à ce titre les créanciers qui, dans le cas des dettes obligataires justiciables de la procédure de l'offre de règlement, auront accepté cette offre ou, dans le cas des autres dettes, auront accepté que des modalités de paiement et autres conditions soient établies pour de telles dettes conformément à ces dispositions.

(2)—(a) Dans le cas des dettes obligataires justiciables de la procédure de l'offre de règlement, l'acceptation de l'offre, au sens du paragraphe (1) du présent Article, s'effectuera par la présentation des anciennes obligations ou des anciens coupons:

- (i) à l'échange si de nouvelles obligations ou de nouveaux coupons sont émis, ou
- (ii) à l'estampillage si les modalités de règlement doivent être portées par estampillage sur les anciennes obligations ou les anciens coupons;

(b) le porteur d'une obligation visée par l'Annexe II. au présent Accord pour laquelle une offre de règlement est faite, aura au moins 5 ans à compter de la date de cette offre pour l'accepter. Lorsqu'un motif raisonnable sera invoqué, le débiteur devra prolonger ce délai.

(3) Dans le cas des dettes autres que celles visées au paragraphe (2) (a) du présent article le créancier sera, en l'absence de disposition précise sur ce point dans une Annexe au présent Accord, considéré comme ayant accepté l'établissement de modalités de paiement et autres conditions au sens du paragraphe (1) du présent Article s'il marque clairement, de quelque manière que ce soit, son intention d'accepter.

(4) Les procédures de règlement prévues dans le présent Accord et les Annexes appropriées ne sont applicables à un débiteur que lorsque ce dernier a fait une proposition de règlement, une notification d'accession ou une déclaration de participation au titre de sa dette conformément aux dispositions de l'Annexe applicable du présent Accord. Le présent paragraphe ne sera pas considéré comme affectant les dispositions de l'Article 17 du présent Accord.

(5) En donnant effet aux dispositions de l'Article 2 du présent Accord, la République Fédérale d'Allemagne sera en droit de tenir compte des dispositions des précédents paragraphes du présent Article.

ARTICLE 16

*Extinction des obligations des débiteurs*

Lorsqu'un débiteur se sera acquitté de sa dette selon des modalités de règlement établies en application du présent Accord et de ses Annexes, il sera censé s'être également acquitté, de ce fait, de toutes les obligations qui lui incombent au titre de cette dette, telle qu'elle existait avant l'établissement de ces modalités, à moins que ces obligations n'aient été déjà éteintes par accord.

ARTICLE 17

*Sanction des droits des créanciers*

(1) La République Fédérale d'Allemagne donnera à tout créancier le droit, dans les limites du présent Accord et de ses Annexes, de faire sanctionner par les tribunaux allemands et par les autorités allemandes :

- (a) ses droits au titre de la dette tels qu'ils existent au moment où il est fait application du présent Article, si ce créancier et son débiteur n'ont pu s'entendre sur les modalités de règlement et que le créancier déclare accepter l'établissement, par ces tribunaux, de modalités de paiement et autres conditions conformes aux dispositions du présent Accord et de ses Annexes;
- (b) ses droits selon les modalités de règlement de la dette, si le débiteur ne s'acquitte pas de ses obligations conformément à ces modalités (y compris les droits qui, aux termes du présent Accord et de ses Annexes, peuvent être exercés par le créancier lorsque le débiteur ne s'acquitte pas de ces obligations). Toutefois, le créancier ne sera pas en droit de demander, plus rapidement que si le débiteur s'était acquitté de ses obligations, le transfert des montants en capital qui pourraient devenir exigibles à la suite du défaut de celui-ci.

(2) Le droit visé au paragraphe (1) du présent Article ne sera pas accordé à un créancier si, au moment où celui-ci invoque les dispositions de ce paragraphe, le litige relève, aux termes du contrat en cause ou du présent Accord

et de ses Annexes, de la compétence exclusive d'un tribunal dans un pays créancier ou d'une instance arbitrale. Lorsque la compétence exclusive est prévue par le contrat, le créancier et le débiteur pourront convenir de renoncer à cette disposition et le créancier se verra de ce fait ouvrir le droit prévu au paragraphe (1).

(3) (a) Qu'il y ait ou non réciprocité entre la République Fédérale d'Allemagne et le pays dans lequel la décision a été rendue, la République Fédérale d'Allemagne donnera à tout créancier le droit, sous réserve des conditions applicables du paragraphe (1) et compte-tenu des dispositions du paragraphe (4) du présent Article, d'obtenir des Tribunaux allemands et des Autorités allemandes l'exécution des décisions judiciaires ou arbitrales définitives rendues :

- (i) dans un pays créancier après l'entrée en vigueur du présent Accord;
- (ii) dans un pays créancier avant l'entrée en vigueur du présent Accord, lorsque le débiteur ne conteste pas la dette établie par cette décision.

(b) Dans tout autre instance engagée devant un tribunal allemand au titre d'une dette ayant fait l'objet d'une décision judiciaire ou arbitrale rendue dans un pays créancier avant l'entrée en vigueur du présent Accord, le Tribunal acceptera comme établis les faits sur lesquels la décision en cause est fondée, à moins que le débiteur ne présente des preuves contraires. En pareil cas, le créancier pourra faire appel à toutes autres preuves en son pouvoir et notamment aux pièces de la procédure dans l'instance précédente. Toute obligation pécuniaire non contractuelle dont le montant est établi par décision d'un tribunal allemand dans une instance au titre du présent paragraphe, sera, aux fins du paragraphe (1) (a) de l'Article 4 du présent Accord, considérée comme ayant été liquide, à la date de la décision judiciaire ou arbitrale définitive rendue dans le pays créancier.

(c) La République Fédérale d'Allemagne donnera au créancier le droit, sous réserve des conditions applicables du paragraphe (1) du présent Article, d'obtenir des tribunaux allemands et des autorités allemandes l'exécution des décisions judiciaires et arbitrales définitives relatives à une dette rendues sur le territoire de l'Allemagne avant le 8 mai 1945 ou sur le territoire de la zone monétaire du Deutschemark-Ouest après le 8 mai 1945.

(4) Les tribunaux allemands pourront refuser d'exécuter, au titre du paragraphe (3) du présent Article, la décision d'un tribunal étranger ou d'une instance arbitrale (à l'exception des instances arbitrales instituées par application des dispositions du présent Accord et de ses Annexes) dans toute affaire :

- (a) dans laquelle le tribunal ayant rendu la décision n'était pas compétent, ou dans laquelle la compétence de l'instance arbitrale ayant rendu la décision n'était pas fondée sur l'accord des parties;
- (b) dans laquelle le débiteur n'a pas eu la possibilité de présenter ses conclusions devant le tribunal ou l'instance arbitrale en cause;
- (c) dans laquelle l'exécution de la décision serait contraire à l'ordre public dans la République Fédérale l'Allemagne. Toutefois, le fait qu'un jugement n'est pas en harmonie avec les dispositions du présent Accord ou de ses Annexes ne sera pas considéré comme de nature à en rendre l'exécution, dans les limites du présent Accord et de ses Annexes, contraire à l'ordre public au sens du présent alinéa.

(5) La République Fédérale d'Allemagne donnera aux Associations de porteurs ou organismes similaires mentionnés à l'Annexe I et aux représentants de créanciers mentionnés à l'Article VIII de l'Annexe II au présent Accord, le droit de faire établir par les tribunaux et les autorités allemandes les modalités de l'offre de règlement lorsque le débiteur (autre que la République

Fédérale d'Allemagne) n'a pas présenté, pour une dette obligataire existante, une proposition de règlement, conformément aux dispositions applicables des Annexes I et II au présent Accord.

(6) (a) Un débiteur qui ne présente pas une proposition de règlement au titre de l'Annexe I ou de l'Annexe II au présent Accord, n'est pas admis, dans une instance engagée devant un tribunal allemand au titre des paragraphes (1), (3) ou (5) du présent Article, à bénéficier des dispositions du paragraphe 7 (1) (e) de l'Annexe I ou du paragraphe 11 de l'Article V de l'Annexe II au présent Accord relatives aux cas où le débiteur se trouve dans une situation financière difficile. Lorsqu'il établira les modalités de l'offre de règlement ou les modalités de règlement de la dette en cause, le tribunal prescrira le plus court délai de remboursement qui, aux termes de l'Annexe appropriée, peut être appliqué dans le règlement de cette dette, et condamnera le débiteur à rembourser au demandeur les dépenses visées au paragraphe (7) (h) de l'Annexe I ou au paragraphe (2) de l'Article X de l'Annexe II au présent Accord; ces montants seront immédiatement exigibles et payables. Le tribunal prescrira également le paiement par le débiteur des frais de l'instance et de tous les frais et dépenses raisonnables exposés dans l'instance en cause soit par le créancier, dans le cas des dettes non obligataires, soit par l'Association de porteurs ou l'organisme similaire ou par le représentant des créanciers intéressés, dans le cas des dettes obligataires.

(b) Lorsqu'un débiteur ne fait pas de déclaration d'accession conformément aux dispositions de l'Article 22 de l'Annexe III au présent Accord, le créancier intéressé est en droit, dans toute instance engagée au titre des paragraphes (1) ou (3) du présent Article, de faire valoir ses droits conformément aux dispositions de ladite Annexe. Dans le cas cependant des Débiteurs Commerciaux ou Industriels Allemands au sens de ladite Annexe, qui sont les débiteurs directs du créancier, ce dernier ne pourra faire valoir ses droits qu'à l'expiration d'un délai de trente jours à compter de la première réunion du Comité Consultatif prévu par l'Article 17 de l'Annexe III. Lorsqu'il ordonnera le paiement de la dette conformément aux dispositions de cette Annexe, le tribunal prescrira le paiement par le débiteur des frais de l'instance et de tous les frais et dépenses raisonnables exposés par le créancier dans l'instance en cause.

(c) Un débiteur qui ne souscrit pas la déclaration requise par l'Article 14 de l'Annexe IV au présent Accord n'est pas admis, dans toute instance engagée devant un tribunal allemand au titre des paragraphes (1) ou (3) du présent Article, à bénéficier des dispositions de l'Article 11 de cette Annexe relatives aux cas où le débiteur se trouve dans une situation financière difficile. Au cas cependant où le manquement du débiteur serait uniquement fondé sur la contestation, par ce dernier, de l'existence de la dette, la disposition qui précède ne sera pas applicable, sous réserve que, si le tribunal ou le tribunal arbitral visé à l'Article 15 de l'Annexe IV juge que la dette existe, le débiteur ne sera pas admis à bénéficier des dispositions de l'Article 11 de l'Annexe IV, s'il ne fait pas la déclaration requise dans un délai de trente jours à compter de la notification de la décision définitive de ce tribunal. Dans toute instance, au titre du présent alinéa, dans laquelle le débiteur n'est pas admis à bénéficier des dispositions de l'Article 11 de l'Annexe IV, le tribunal prescrira le paiement par le débiteur des frais de l'instance et de tous honoraires raisonnables du conseil du demandeur.

(7) La République Fédérale d'Allemagne donnera au créancier le droit, dans les limites du présent Accord et de ses Annexes, de poursuivre devant les tribunaux allemands et par l'intermédiaire des autorités allemandes le recouvrement de ses créances à l'encontre d'une personne résidant dans la zone monétaire du Deutschemark-Est, sur les biens de cette personne dans la zone monétaire du Deutschemark-Ouest, si ces créances découlent

d'obligations satisfaisant; sauf en ce qui concerne la résidence du débiteur, aux conditions de l'Article 4 du présent Accord. Le droit au transfert des sommes reçues par le créancier sera sujet au régime de contrôle des changes en vigueur dans la zone monétaire du Deutschemark-Ouest.

## ARTICLE 18

### *Délais de prescription*

(1) Aucun débiteur ne sera en droit d'opposer à l'établissement d'une offre de règlement ou de modalités de règlement pour une dette l'expiration d'un délai de prescription ou de forclusion relatif à la présentation d'une réclamation quelconque afférente à cette dette, avant une date qui sera déterminée en considérant ces délais, pour autant qu'ils n'ont pas expiré avant le 1<sup>er</sup> juin 1933, comme suspendus du 1<sup>er</sup> juin 1933 jusqu'à l'expiration d'un délai de 18 mois à compter de la date à laquelle le présent Accord et l'Annexe appropriée deviendront applicables à la dette en cause.

(2) Sans préjudice des dispositions du paragraphe (1) du présent Article, les délais de prescription et de forclusion visés au paragraphe (1) et applicables aux dettes obligataires énumérées dans les Sections A et B de l'Annexe I ou visées par l'Annexe II au présent Accord seront, en vue de l'établissement de modalités de règlement, censés n'avoir pas expiré avant la date à laquelle l'offre de règlement du débiteur cessera d'être ouverte à l'acceptation du créancier conformément aux dispositions du paragraphe 8 (b) de l'Annexe I et de l'Article 15 du présent Accord.

(3) Lorsque le créancier accepte une offre de règlement ou accepte que des modalités de règlement soient établies pour une dette conformément aux dispositions de l'Article 15 du présent Accord, cette acceptation interrompt les délais de prescription et de forclusion relatifs à la présentation des réclamations afférentes à cette dette.

(4) Les délais d'appel des décisions des tribunaux, instances arbitrales ou autorités administratives, les délais visés par le paragraphe 3 de la Section 12 de la Loi allemande sur les contrats d'assurance et les délais prévus par les lois allemandes sur la validation des valeurs mobilières ne sont pas compris parmi les délais de prescription et de forclusion visés aux paragraphes (1), (2) et (3) du présent Article.

(5) Les dispositions qui précèdent s'appliqueront, que les délais aient été établis par la loi allemande ou par la loi d'un autre pays, par une décision d'un tribunal, d'une instance arbitrale ou d'une autorité administrative, par un contrat ou par un autre acte juridique. La République Fédérale d'Allemagne fera en sorte qu'elles soient appliquées par les tribunaux allemands, même si les obligations du débiteur relèvent, quant au fond, d'une loi étrangère.

## ARTICLE 19

### *Accords subsidiaires*

- (1) Les accords résultant des négociations prévues
- (a) au paragraphe 11 de l'Annexe I au présent Accord (créances nées des décisions du Tribunal Arbitral Mixte gréco-allemand)
  - (b) au paragraphe 15 de l'Annexe I au présent Accord (responsabilité des dettes gouvernementales de l'Autriche)
  - (c) à l'Article 10 de l'Annexe IV au présent Accord (paiements à la Deutsche Verrechnungskasse)

(d) à l'Appendice A de l'Annexe IV au présent Accord (dettes foncières en francs suisses)

seront soumis pour approbation aux Gouvernements des Etats-Unis d'Amérique, de la République Française et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord par le Gouvernement de la République Fédérale d'Allemagne (s'il y a lieu, après approbation par ce dernier).

(2) Chacun de ces accords entrera en vigueur et sera traité à tous égards comme une Annexe au présent Accord lorsqu'il aura été approuvé par ces Gouvernements. Toutes les Parties Contractantes en seront avisées par le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord.

#### ARTICLE 20

##### *Dettes du Reich au titre d'Accords Multilatéraux*

Aucune des dispositions du présent Accord n'interdit des paiements au titre des dettes du Reich ou des Agences du Reich découlant de cotisations impayées ou de services rendus dans le cadre d'un accord international multilatéral ou des statuts d'une organisation internationale. A la demande des créanciers intéressés, le Gouvernement de la République Fédérale d'Allemagne participera à des négociations directes au sujet de ces dettes.

#### ARTICLE 21

##### *Renouvellement de l'Annexe III*

Par " Annexe III " au présent Accord, il faut entendre également tout accord ou tous accords qui pourront être conclus après la date du présent Accord en vue de renouveler les dispositions de cette Annexe. Tout accord de l'espèce pourra modifier les dispositions de l'Annexe III, mais devra tendre à établir les moyens de restaurer les conditions normales du financement du commerce extérieur de la République Fédérale d'Allemagne, conformément aux objectifs généraux du présent Accord.

#### ARTICLE 22

##### *Créances d'assurances sociales*

(1) Le Gouvernement de la République Fédérale d'Allemagne entrera en négociations avec les Gouvernements des pays créanciers intéressés en vue du règlement des créances d'assurances sociales, nées en application des lois et règlements allemands en vigueur avant le 8 mai 1945, au titre de toute période antérieure à cette date, dans la mesure où ces créances doivent être considérées selon la législation de la République Fédérale d'Allemagne, ou conformément à des engagements souscrits par elle, comme à sa charge ou à la charge d'institutions d'assurances sociales situées sur le territoire fédéral, et dans la mesure où ces créances ne sont pas traitées dans un accord avec le Gouvernement du pays créancier intéressé. Aucune disposition de ce paragraphe ne doit empêcher l'inclusion dans de tels accords de dispositions selon lesquelles des lois ou règlements en vigueur dans la République Fédérale d'Allemagne en matière d'assurances sociales prévoyant un traitement moins favorable pour les ressortissants d'autres pays que pour les ressortissants allemands ne seront pas appliqués.

(2) La République Fédérale d'Allemagne prendra les dispositions nécessaires en vue du règlement des créances visées au paragraphe ci-dessus, mais non couvertes par des accords avec des Gouvernements de pays créanciers, et des transferts correspondants, à condition qu'il s'agisse de

créances de ressortissants ou de résidents d'un pays créancier dans lequel les paiements afférents à des créances analogues peuvent être transférés à des ressortissants ou des résidents de la République Fédérale d'Allemagne. Les lois et règlements en vigueur dans la République Fédérale d'Allemagne en matière d'assurances sociales prévoyant un traitement moins favorable pour les ressortissants d'autres pays que pour les ressortissants allemands ne seront pas appliqués si le pays créancier intéressé ne fait pas, quant aux paiements d'assurances sociales, de discrimination entre ses ressortissants et les ressortissants allemands ou entre ses résidents et les résidents de la République Fédérale d'Allemagne.

(3) Les créances visées au paragraphe (1) du présent Article, au titre d'assurances sociales, de ressortissants ou de résidents d'un pays créancier qui ne seront pas réglées en vertu du paragraphe (1) ou conformément au paragraphe (2) du présent Article seront réglées selon les dispositions de l'Article 28 de l'Annexe IV au présent Accord.

### ARTICLE 23

#### *Dettes d'assurances*

(1) Lorsque les arrangements bilatéraux conclus en exécution de l'Article 30, paragraphe (1), de l'Annexe IV au présent Accord contiendront des dispositions en vue du transfert de paiements afférents à des dettes, ou du paiement en Deutschemark de dettes, découlant de contrats, ou d'accords de toute nature, d'assurance ou de réassurance, ou relatives à de tels contrats ou accords, ces dispositions devront être compatibles avec celles qui régissent le règlement des autres types de dettes.

(2) Lorsqu'aucun accord bilatéral n'aura été conclu au 30 juin 1953, les dettes au titre de contrats d'assurance ou de réassurance seront réglées conformément aux dispositions de l'Article 30, paragraphe (2) et de l'Article 31 de l'Annexe IV. La date limite du 30 juin 1953 pourra être reportée par accord mutuel. Les modalités les plus favorables figurant dans l'un quelconque des accords bilatéraux conclus conformément au paragraphe (1) du présent Article en vue du transfert de paiements afférents à une catégorie quelconque de dettes, ou du paiement en Deutschemark de ces dettes, seront applicables aux dettes de la même catégorie envers des créanciers résidant dans des pays avec lesquels il n'aura pas été conclu d'accords bilatéraux.

### ARTICLE 24

#### *Application de l'Accord à Berlin*

(1) Sous réserve des dispositions du paragraphe (2) (b) de l'Article 4 et du paragraphe (5) de l'Article 5, le présent Accord s'appliquera à Berlin, qui, dans les limites de sa compétence, s'acquittera d'engagements correspondant à ceux que la République Fédérale d'Allemagne assume au titre du présent Accord et de ses Annexes.

(2) Le présent Accord entrera en vigueur, en ce qui concerne Berlin, lors de son entrée en vigueur conformément au paragraphe (2) de l'Article 35 ou postérieurement, lorsque le Gouvernement de la République Fédérale d'Allemagne déposera auprès du Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord une déclaration précisant que toutes les mesures d'ordre juridique nécessaires à l'application du présent Accord à Berlin, ont été prises à Berlin.

ARTICLE 25

*Révision de l'Accord lors de la réunification de l'Allemagne*

Les Parties Contractantes réviseront le présent Accord lors de la réunification de l'Allemagne. Cette révision aura exclusivement pour objet :

- (a) d'appliquer les dispositions des Annexes au présent Accord, prévoyant l'ajustement de certaines dettes particulières en cas de réunification, sauf dans la mesure où il est prévu que ces dispositions sont automatiquement appliquées en pareil cas;
- (b) d'étendre l'application des dispositions du présent Accord aux dettes des personnes résidant dans le territoire réuni avec celui de la République Fédérale d'Allemagne.
- (c) d'effectuer des ajustements équitables dans le cas des dettes dont les modalités de règlement ont été établies en tenant compte de la disparition ou de l'indisponibilité de certains avoirs situés dans le territoire réuni avec celui de la République Fédérale d'Allemagne.

ARTICLE 26

*Accords antérieurs*

Aucune des dispositions du présent Accord ne sera considérée comme affectant la validité de tout Accord relatif à un règlement d'obligations conclu par le Gouvernement de la République Fédérale d'Allemagne avant l'entrée en vigueur du présent Accord.

ARTICLE 27

*Préséance de l'Accord sur les Annexes*

En cas d'incompatibilité entre les dispositions du présent Accord et les dispositions de l'une quelconque de ses Annexes les dispositions du présent Accord prévaudront.

ARTICLE 28

*Tribunal d'Arbitrage*

(1) Il est institué, aux fins définies ci-après, un Tribunal d'Arbitrage de l'Accord sur les Dettes extérieures allemandes (dénommé ci-après "le Tribunal"). La composition, l'organisation et les règles de fonctionnement du Tribunal sont définies dans la Charte jointe en Annexe IX au présent Accord.

(2) Sous réserve des dispositions du paragraphe (5) du présent Article, le Tribunal est seul compétent pour tous les litiges entre deux ou plusieurs Parties Contractantes relatifs à l'interprétation et à l'application de l'Accord ou de ses Annexes, que les Parties ne parviendront pas à régler par voie de négociations. Toutefois, les litiges relatifs à l'interprétation ou à l'application de l'Article 34 du présent Accord sont exclus de la compétence du Tribunal et de tout autre cour ou tribunal. Dans toute instance devant le Tribunal relative à un litige entre Parties Contractantes autres que le Gouvernement de la République Fédérale d'Allemagne, ce dernier Gouvernement deviendra partie à l'instance si l'une des Parties au litige le demande.



(3) Le Tribunal est seul compétent pour les instances relatives aux questions d'importance fondamentale pour l'interprétation de l'Annexe IV au présent Accord, visées au second paragraphe de l'Article 16 de cette Annexe, qui lui sont soumises par toute Partie Contractante. La présente disposition ne porte pas atteinte à la compétence attribuée à la Commission Mixte par le paragraphe (2) de l'Article 31 du présent Accord.

(4) Le Tribunal est seul compétent pour connaître des appels interjetés par application des dispositions du paragraphe (7) de l'Article 31 du présent Accord.

(5) Sans préjudice des dispositions des paragraphes (3) et (4) du présent Article, le Tribunal n'a pas compétence pour connaître des litiges portant exclusivement sur l'interprétation ou l'application d'une Annexe au présent Accord lorsqu'une instance arbitrale instituée en application de ladite Annexe est compétente pour décider la question d'interprétation ou d'application en cause. La présente disposition ne sera pas considérée comme limitant la compétence du Tribunal dans tout litige sur le point de savoir si une décision rendue par l'une des instances arbitrales mentionnées ci-dessus entre en conflit avec l'une quelconque des dispositions du présent Accord.

(6) Toute Partie Contractante ayant un intérêt à la question qui fait l'objet d'une instance devant le Tribunal est en droit de devenir partie à cette instance.

(7) Le Tribunal a pouvoir pour statuer sur les questions relatives à l'étendue de sa compétence dans le cadre des précédentes dispositions du présent Article.

(8) Toute décision du Tribunal :

- (a) dans une instance au titre du paragraphe (2) du présent Article, est définitive et lie les parties au litige et toute autre Partie Contractante devenue partie à l'instance;
- (b) dans une instance au titre du paragraphe (3) du présent Article, est définitive et lie la Partie Contractante qui a soumis la question au Tribunal et toute autre Partie Contractante devenue partie à l'instance;
- (c) dans un appel au titre du paragraphe 4 du présent Article, est définitive et lie la partie ou les parties à l'appel.

(9) La compétence du Tribunal n'est pas affectée par le défaut de toute partie à un litige.

(10) Dans leurs décisions sur l'interprétation ou l'application du présent Accord ou de ses Annexes, toutes les instances arbitrales autre que le Tribunal, établies par application du présent Accord ou de ses Annexes, sont liées par les décisions applicables du Tribunal.

(11) A la demande de toute Partie Contractante, le Tribunal donne un avis consultatif sur l'interprétation ou l'application du présent Accord (à l'exclusion de l'Article 34). Cet avis consultatif n'a pas force obligatoire.

## ARTICLE 29

### *Arbitrage de certains litiges dans le cadre de l'Annexe I*

(1) Seules les Associations de porteurs de valeurs mobilières ou les organisations similaires reconnues par les Gouvernements des pays dans lesquels elles sont constituées comme représentant les porteurs de valeurs mobilières de ces pays (dénommés ci-après "les représentants des créanciers"), d'une part, et les débiteurs, d'autre part, sont en droit d'être parties à une instance devant un des Tribunaux d'Arbitrage prévus pour le règlement des litiges définis dans la Section 7(1)(g) de l'Annexe I au présent Accord.

(2) Les Tribunaux d'Arbitrage prévus au paragraphe précédent comprennent, sauf s'il en a été autrement convenu par les parties au litige, trois membres nommés comme suit :

- (a) un membre nommé par le débiteur;
- (b) un membre nommé par le représentant des créanciers intéressés ou, lorsque plusieurs représentants des créanciers sont en cause, conjointement par ces représentants;
- (c) un troisième membre, assumant les fonctions de Président, choisi par les arbitres nommés conformément aux alinéas (a) et (b) du présent paragraphe. Le Président ne peut être un ressortissant allemand, ni un ressortissant d'un pays dans lequel l'un des représentants des créanciers parties au litige a été constitué.

(3) Dans les quatre-vingt dix jours de la notification, par l'une des parties au litige, de la nomination de son arbitre à l'autre partie, celle-ci doit nommer son arbitre. Au cas où elle ne l'aurait pas fait dans le délai prescrit, l'arbitre sera, à la demande de la partie ayant effectué la notification prévue ci-dessus, nommé par la Chambre de Commerce Internationale.

(4) Au cas où les deux arbitres ne pourraient se mettre d'accord dans les trente jours de la nomination du second arbitre sur la désignation du Président, celui-ci sera, à la demande de l'un quelconque des deux arbitres, nommé par la Chambre de Commerce Internationale. Cette nomination sera sujette à la condition de nationalité prévue au paragraphe (2) (c) du présent Article.

(5) En cas de vacance pour cause de décès, maladie, démission ou non exécution par un membre du Tribunal d'Arbitrage des devoirs de sa charge, il sera pourvu au siège devenu vacant selon la même procédure que lors de la nomination initiale, dans les trente jours de la vacance.

(6) Les Tribunaux d'Arbitrage arrêtent leurs propres règles de procédure. A défaut, le Code d'arbitrage de la Chambre de Commerce Internationale est applicable.

(7) La décision d'un Tribunal d'Arbitrage, quant à la conversion qui fait l'objet de l'arbitrage, lie les parties à l'instance en ce qui concerne les modalités de l'offre de règlement, et le représentant des créanciers est tenu de recommander l'acceptation de cette offre aux porteurs, pour autant qu'elle se conforme aux autres conditions prévues par l'Annexe I au présent Accord.

### ARTICLE 30

#### *Situation des trustees au regard des dispositions de l'Annexe II et de la procédure d'arbitrage prévue par cette Annexe*

(1) Lorsque le Comité d'Arbitrage et de Médiation constitué par application de l'Article IX de l'Annexe II au présent Accord est saisi d'une instance relative au règlement d'une dette obligataire à laquelle cette Annexe est applicable, il notifie cette instance au trustee de la dette en cause. Ce dernier peut, dans les vingt jours suivant la réception de cette notification, devenir partie à l'instance.

(2) Afin de permettre aux trustees des dettes obligataires de s'acquitter des obligations qui peuvent leur incomber envers les porteurs de ces dettes, tout débiteur qui, conformément aux dispositions de l'Article VII de l'Annexe II au présent Accord, soumet au représentant des créanciers une proposition en vue d'une offre de règlement, doit soumettre en même temps, une copie de cette proposition au trustee de la dette en cause. Ce dernier peut faire connaître au débiteur et au représentant des créanciers toute objection qu'il pourrait avoir à l'encontre des modalités de l'offre en cours de négociation, et cette objection doit être étudiée au cours des négociations.

(3) Avant de conclure un accord définitif avec le représentant des créanciers sur les modalités de l'offre de règlement, le débiteur notifie ces modalités par écrit au trustee. Dans les dix jours suivant la réception de cette notification, ce dernier est en droit de soumettre au Comité d'Arbitrage et de Médiation toute objection qu'il peut avoir à l'encontre des modalités de l'offre de règlement, sur tout point pour lequel il décide, à sa seule discrétion, que les termes du contrat de mandat ("Trusteeship") existant lui imposent des obligations envers les porteurs. Le Comité d'Arbitrage et de Médiation notifie l'introduction de cette instance au représentant des créanciers et au débiteur. Ceux-ci peuvent devenir partie à l'instance dans les vingt jours suivant la réception de cette notification. La compétence du Comité d'Arbitrage et de Médiation à l'égard de l'instance n'est pas affectée par le défaut du représentant des créanciers ou du débiteur. Si à l'expiration du délai de dix jours prévu ci-dessus, il n'a pas été fait appel à l'arbitrage, le débiteur peut conclure l'accord envisagé avec le représentant des créanciers.

(4) Toute décision du Comité d'Arbitrage et de Médiation, dans une instance engagée par application du paragraphe (3) du présent Article, lie le représentant des créanciers et le débiteur dans la mesure prévue par le paragraphe 1, deuxième alinéa, de l'Article IX de l'Annexe II au présent Accord. Dans toute instance à laquelle le trustee est devenu partie par application du paragraphe (1) ou du paragraphe (3) du présent Article, le trustee a les mêmes droits que toute autre partie à l'instance.

#### ARTICLE 31

##### *Commission Mixte pour le règlement des questions relatives à l'Annexe IV*

(1) La composition, l'organisation et les règles de fonctionnement de la Commission Mixte prévue par l'Article 16 de l'Annexe IV au présent Accord sont définies dans la Charte jointe en Annexe X au présent Accord.

(2) La Commission Mixte est compétente pour :

(a) les divergences d'opinion entre créanciers et débiteurs résultant de l'interprétation de l'Annexe IV au présent Accord, qui lui sont soumises soit conjointement par un créancier et un débiteur, soit par un créancier ou un débiteur dont le Gouvernement déclare qu'à son avis la question en litige est d'importance générale pour l'interprétation de ladite Annexe;

(b) les litiges qui, initialement soumis à un tribunal arbitral établi par application des dispositions de l'Article 17 de l'Annexe IV au présent Accord, sont, par application de l'Article 16 de la même Annexe, renvoyés à la Commission Mixte, soit par une Partie Contractante, soit par le tribunal arbitral lui-même, motif pris de ce que le cas présente une importance fondamentale pour l'interprétation de l'Annexe IV. Toutefois, lorsque l'instance engagée devant un tribunal arbitral est un appel interjeté par application de l'Article 11 de l'Annexe IV, seule la question présentant une importance fondamentale pour l'interprétation de cette Annexe est soumise à la Commission Mixte, pour décision.

(3) Toute Partie Contractante ayant un intérêt à la question qui fait l'objet d'une instance devant la Commission Mixte est en droit de devenir partie à cette instance.

(4) La compétence de la Commission Mixte n'est pas affectée par le défaut de toute partie au litige.

(5) La Commission Mixte a pouvoir pour statuer sur les questions relatives à l'étendue de sa compétence, dans le cadre des précédentes dispositions du présent Article.

(6) Sous réserve des dispositions du paragraphe (7) du présent Article, toute décision de la Commission Mixte est définitive et obligatoire :

- (a) pour les parties à toute instance devant la Commission;
- (b) pour toute partie à un litige soumis à la Commission Mixte au titre du paragraphe (2) (a) du présent Article;
- (c) pour toute Partie Contractante qui soumet à la Commission Mixte pour décision une question ou une affaire au titre du paragraphe (2) (b) du présent Article;
- (d) pour tout Tribunal Arbitral saisi d'un litige qui a fait l'objet d'un renvoi à la Commission Mixte par application du paragraphe (2) (b) du présent Article;
- (e) lorsque l'une des modalités de règlement d'une dette est en cause dans l'instance, pour cette modalité de règlement.

(7) Toute Partie Contractante est en droit d'interjeter appel d'une décision de la Commission Mixte devant le Tribunal, dans les trente jours de l'intervention de cette décision, motif pris de ce qu'elle touche à une question d'importance générale ou fondamentale. L'appel ne peut être fait que pour la question dont le Gouvernement appelant affirme qu'elle est d'importance générale ou fondamentale. Lorsque le Tribunal a rendu sa décision sur cette question, la Commission prend, au sujet de l'affaire pour laquelle l'appel a été interjeté, les mesures qui peuvent être nécessaires pour donner effet à la décision du Tribunal.

ARTICLE 32

*Tribunaux Arbitraux pour les litiges dans le cadre de l'Annexe IV*

(1) Un créancier et un débiteur qui, en application du cinquième paragraphe de l'Article 17 de l'Annexe IV au présent Accord, se sont mis d'accord pour soumettre un litige à un tribunal arbitral, doivent nommer chacun un arbitre dans les trente jours de leur accord. Lorsque plusieurs créanciers ou plusieurs débiteurs sont en cause, l'arbitre est nommé conjointement par ces créanciers ou par ces débiteurs. Si l'un des arbitres n'est pas nommé dans le délai prescrit, les autres parties au litige sont en droit de demander à la Chambre de Commerce Internationale de procéder à cette nomination. Dans les trente jours suivant la date de la nomination du second arbitre, les deux arbitres désignent un tiers arbitre qui assume les fonctions de Président. Si le Président n'est pas désigné dans ce délai, chacune des parties peut demander à la Chambre de Commerce Internationale de procéder à la nomination.

(2) (a) Tout créancier qui, par application du deuxième paragraphe de l'Article 11 de l'Annexe IV au présent Accord, fait appel devant un tribunal arbitral, doit, dans les trente jours de la signification du jugement du tribunal allemand :

- (i) notifier l'appel au Tribunal allemand qui a rendu le jugement,
- (ii) notifier au débiteur le nom de l'arbitre qu'il a nommé pour siéger au tribunal arbitral.

(b) La réception de la notification prévue à l'alinéa (a) (i) du présent paragraphe met fin à toute procédure devant les tribunaux allemands au sujet du jugement, dans la mesure où la dette faisant l'objet de l'appel est en cause, et le jugement cesse d'avoir effet à cet égard.

(c) Dans les trente jours suivant la réception de la notification prévue à l'alinéa (a) (ii) du présent paragraphe, le débiteur doit notifier au créancier le nom de l'arbitre qu'il a nommé pour siéger au Tribunal arbitral. Si le

débiteur ne fait pas cette notification dans le délai prescrit, le créancier est en droit de prier la Chambre de Commerce Internationale de nommer cet arbitre.

Un tiers arbitre, faisant fonction de Président, est désigné conformément à la procédure prévue au paragraphe (1) du présent Article.

(d) Tout tribunal arbitral saisi d'un appel, par application du deuxième paragraphe de l'Article 11 de l'Annexe IV au présent Accord :

- (i) siège sur le territoire de la République Fédérale d'Allemagne, à moins que les parties à l'instance n'en conviennent autrement;
- (ii) applique les principes prévus au premier paragraphe de l'Article 11 de l'Annexe IV au présent Accord;
- (iii) conduit l'instance comme une nouvelle action.

(e) Si, au cours d'une instance d'appel intentée devant un tribunal arbitral par application du deuxième paragraphe de l'Article 11 de l'Annexe IV au présent Accord, une question est renvoyée à la Commission Mixte par application du paragraphe (2) (b) de l'Article 31 du présent Accord, le tribunal arbitral suspend immédiatement l'instance jusqu'à ce que la Commission Mixte ait rendu une décision définitive sur la question qui lui a été renvoyée. Lorsque cette décision est rendue, le tribunal arbitral reprend l'instance et prend les mesures qui peuvent être nécessaires pour donner effet à cette décision.

(3) Dans leurs décisions sur l'interprétation de l'Annexe IV au présent Accord, les tribunaux arbitraux sont liés par les décisions applicables de la Commission Mixte.

(4) En cas de vacance pour cause de décès, maladie, démission ou non exécution par un membre d'un tribunal arbitral des devoirs de sa charge, il sera pourvu au siège devenu vacant, selon la même procédure que lors de la nomination initiale, dans les trente jours de la vacance.

(5) Tout tribunal arbitral peut décider de la répartition des frais de l'instance, y compris les honoraires des conseils, et, dans un appel au titre du paragraphe (2) du présent Article, décider quelle est la partie qui doit supporter les frais de la procédure devant le Tribunal allemand ou répartir ces frais entre les parties. Faute de décision, chaque partie à l'instance paie ses propres frais; les dépenses du tribunal arbitral et, s'il y a lieu, les frais de la procédure devant le Tribunal allemand sont partagés par moitié entre le ou les créanciers et le ou les débiteurs.

(6) Une affaire en instance devant un tribunal arbitral ne peut être retirée qu'avec le consentement de toutes les parties à l'instance.

(7) Les tribunaux arbitraux arrêtent leurs propres règles de procédure dans le cadre du présent Article et de l'Article 17 de l'Annexe IV au présent Accord. A défaut, le Code d'arbitrage de la Chambre de Commerce Internationale est applicable.

(8) Dans toute instance, la décision du tribunal arbitral est définitive et lie les parties à l'instance.

### ARTICLE 33

#### *Questions soulevées au cours de la procédure de décartellisation*

Le Tribunal d'Arbitrage et les autres instances arbitrales établies par application du présent Accord et de ses Annexes ne pourront connaître des questions expressément réglées dans un plan approuvé ou dans un ordre ou un règlement promulgué, en vertu des lois de la Haute Commission Alliée n° 27 (Réorganisation des industries charbonnières et sidérurgiques allemandes) et n° 35 (Dispersion des biens de l'I. G. Farbenindustrie A.G.), par

la Haute Commission Alliée, par l'un des services habilités par elle pour agir en la matière ou par tout organe succédant aux pouvoirs de la Haute Commission Alliée dans ce domaine. Dans tout règlement de l'espèce, le créancier et le débiteur, les Autorités Alliées et la Commission de Révision appliqueront les dispositions du présent Accord et de ses Annexes. Avant l'approbation de tout plan ou la promulgation de tout ordre ou règlement visant une question qui donne lieu à un litige portant sur l'interprétation ou l'application des dispositions du présent Accord ou de ses Annexes, le litige en cause devra être renvoyé pour décision au Tribunal ou à l'instance arbitrale compétente en vertu du présent Accord et de ses Annexes. Les dispositions qui précèdent n'affectent pas la compétence du Tribunal et des autres instances arbitrales établies par application du présent Accord ou de ses Annexes à l'égard des questions qui ne seraient pas expressément réglées dans un plan approuvé, ou dans un ordre ou un règlement promulgué comme il est dit ci-dessus ou qui seraient soulevées par des événements postérieurs à l'entrée en vigueur de ce plan, ordre ou règlement.

#### ARTICLE 34

##### *Consultations*

Pour assurer l'exécution durable et effective du présent Accord et de ses Annexes à la satisfaction de toutes les parties intéressées, et sans déroger aux obligations que la République Fédérale d'Allemagne a assumées :

- (a) des consultations auront lieu entre les Parties Contractantes principalement intéressées si la demande en est faite par le Gouvernement de la République Fédérale d'Allemagne ou le Gouvernement de l'un quelconque des pays créanciers détenteurs d'une fraction notable des créances visées par le présent Accord. Toute Partie Contractante sera en droit de participer à ces consultations et pourra, en pareil cas, inviter des représentants des créanciers ou des débiteurs intéressés à y participer ;
- (b) au cas où ces consultations porteraient sur une situation dans laquelle la République Fédérale d'Allemagne constate qu'elle se heurte à des difficultés dans l'exécution de ses obligations extérieures, il sera accordé attention à toutes les considérations appropriées, d'ordre économique, financier et monétaire, relatives à la capacité de transfert de la République Fédérale d'Allemagne, telle qu'elle est influencée à la fois par des facteurs internes et externes et à l'exécution durable par la République Fédérale de ses obligations au titre du présent Accord et de ses Annexes et au titre des Accords relatifs à l'assistance économique d'après-guerre. Il sera dûment tenu compte des principes qui ont inspiré la Conférence des Dettes extérieures allemandes, des objectifs visés par elle, et de l'engagement du Gouvernement de la République Fédérale d'Allemagne de faire tout ce qui est en son pouvoir pour assurer l'exécution de ces obligations. Si les principales Parties aux consultations le décident, l'avis d'organisations internationales appropriées ou d'autres experts indépendants sera sollicité. Une telle demande pourra être faite par la République Fédérale d'Allemagne ou par l'une quelconque des autres Parties Contractantes principalement intéressées.

#### ARTICLE 35

##### *Entrée en vigueur*

(1) Chacun des Gouvernements signataires du présent Accord, après avoir ratifié ou approuvé cet Accord conformément aux exigences de sa loi interne,

déposera auprès du Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord un instrument de ratification ou d'approbation du présent Accord.

(2) Le présent Accord entrera en vigueur dès que le Gouvernement de la République Fédérale d'Allemagne et les Gouvernements des Etats-Unis d'Amérique, de la République française et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, auront déposé auprès du Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord l'instrument de ratification ou d'approbation prévu au paragraphe (1) ci-dessus. Cette entrée en vigueur aura effet à l'égard de tous les Gouvernements signataires qui auront alors effectué ce dépôt. Le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord notifiera à chacun des Gouvernements signataires de l'Accord la date d'entrée en vigueur de celui-ci ainsi que la liste des Gouvernements à l'égard desquels celui-ci est entré en vigueur.

(3) Pour tout Gouvernement signataire qui effectuerait le dépôt prévu après l'entrée en vigueur visée au paragraphe ci-dessus, la date d'entrée en vigueur de l'Accord sera celle à laquelle il effectuera ce dépôt. Le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord notifiera ce dépôt et la date de ce dépôt à tous les autres Gouvernements signataires et à tout Gouvernement ayant accédé au présent Accord conformément aux dispositions de l'Article 36.

#### ARTICLE 36

##### *Accession*

(1) Tout Gouvernement qui a été invité à signer le présent Accord par les Gouvernements des Etats-Unis d'Amérique, de la France et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord ou par l'un d'entre eux, et par le Gouvernement de la République Fédérale d'Allemagne peut signer le présent Accord ou y accéder conformément aux termes de l'invitation qui lui a été adressée. Tout autre Gouvernement qui établirait, après l'entrée en vigueur du présent Accord, des relations diplomatiques avec la République Fédérale d'Allemagne, pourra accéder au présent Accord. Toute accession s'effectuera par le dépôt d'un instrument d'accession auprès du Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, qui notifiera le dépôt de cet instrument et la date de ce dépôt aux autres Gouvernements signataires et accédants.

(2) Le présent Accord entrera en vigueur au regard de tout Gouvernement accédant, lors du dépôt de son instrument d'accession, mais à une date qui ne pourra précéder celle de l'entrée en vigueur de l'Accord telle qu'elle est prévue à l'Article 35.

#### ARTICLE 37

##### *Extension de l'Accord à certains territoires*

(1) Tout Gouvernement peut, en signant le présent Accord ou en y accédant, ou à tout moment ultérieur, déclarer par notification adressée au Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord que le présent Accord est étendu, à compter de la date spécifiée dans ladite notification, à un, à plusieurs ou à l'ensemble des territoires dont les relations internationales sont sous sa responsabilité.

(2) Le gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord tiendra tous les Gouvernements signataires et accédants informés des notifications déposées par application du présent Article.

## ARTICLE 38

*Réserves et restrictions*

(1) Un Gouvernement ayant déposé un instrument de ratification ou d'approbation du présent Accord ou d'accession à celui-ci, qui ne serait pas conforme aux termes de l'invitation qui lui a été adressée ou qui serait accompagné d'autres réserves ou restrictions, ne sera pas considéré comme une Partie Contractante tant que ces réserves ou restrictions n'auront pas été retirées, ou n'auront pas été acceptées par toutes les Parties Contractantes.

(2) Aucune notification d'extension, donnée par application de l'Article 37, accompagnée de réserves ou de restrictions, ne prendra effet tant que ces réserves ou restrictions n'auront pas été retirées ou n'auront pas été acceptées par toutes les Parties Contractantes.

[NOTE.—*Les titres qui ont été donnés aux Articles de l'Accord ont pour seul objet de faciliter les références éventuelles et ne doivent en aucun cas être considérés comme un élément d'interprétation de l'Accord.*]



# ABKOMMEN ÜBER DEUTSCHE AUSLANDSSCHULDEN

*London, den 27. Februar, 1953*

Die REGIERUNG der BUNDESREPUBLIK DEUTSCHLAND

einerseits

und

die REGIERUNGEN BELGIENS, CEYLONS, DÄNEMARKS, der FRANZÖSISCHEN REPUBLIK, GRIECHENLANDS, IRANS, IRLANDS, ITALIENS, JUGOSLAWIENS, KANADAS, LIECHTENSTEINS, LUXEMBURGS, NORWEGENS, PAKISTANS, SCHWEDENS, der SCHWEIZ, SPANIENS, der SÜDAFRIKANISCHEN UNION, des VEREINIGTEN KÖNIGREICHS VON GROSSBRITANNIEN UND NORDIRLAND und der VEREINIGTEN STAATEN VON AMERIKA

andererseits

HABEN,

getragen von dem Wunsche, Hindernisse auf dem Wege zu normalen Wirtschaftsbeziehungen zwischen der Bundesrepublik Deutschland und den anderen Staaten zu beseitigen und dadurch einen Beitrag zur Entwicklung einer blühenden Völkergemeinschaft zu leisten; und

IN DER ERWÄGUNG,

DASS Zahlungen auf deutsche Auslandsschulden seit ungefähr zwanzig Jahren im allgemeinen nicht mehr den Vertragsbedingungen entsprochen haben; dass auf viele dieser Schulden in der Zeit von 1939 bis 1945 wegen des bestehenden Kriegszustandes Zahlungen unmöglich waren; dass derartige Zahlungen seit dem Jahre 1945 allgemein ausgesetzt waren; und dass die Bundesrepublik Deutschland den Wunsch hat, diesen Zustand zu beenden;

DASS Frankreich, das Vereinigte Königreich von Grossbritannien und Nordirland und die Vereinigten Staaten von Amerika nach dem 8. Mai 1945 Deutschland Wirtschaftshilfe geleistet haben, die zum Wiederaufbau der deutschen Wirtschaft wesentlich beigetragen hat, wodurch die Wiederaufnahme der Zahlungen auf die deutschen Auslandsschulden erleichtert wurde;

DASS am 6. März 1951 zwischen der Regierung der Bundesrepublik Deutschland und den Regierungen der Französischen Republik, des Vereinigten Königreichs von Grossbritannien und Nordirland und der Vereinigten Staaten von Amerika der im Anhang A dieses Abkommens wiedergegebene Schriftwechsel stattgefunden hat, welcher diesem Abkommen über die Regelung der deutschen Auslandsschulden mit seinen Anlagen und den Abkommen über die Regelung der Verbindlichkeiten aus der Deutschland geleisteten Wirtschaftshilfe zugrunde liegt;

DASS die Regierungen der Französischen Republik, des Vereinigten Königreichs von Grossbritannien und Nordirland und der Vereinigten Staaten von Amerika einen Ausschuss mit der Bezeichnung "Dreimächte-ausschuss für Deutsche Schulden" zu dem Zweck eingesetzt haben, mit der Regierung der Bundesrepublik Deutschland, mit anderen interessierten Regierungen sowie mit Vertretern der Gläubiger- und Schuldnerinteressen einen Plan für eine ordnungsgemässe Gesamtregelung der deutschen Auslandsschulden vorzubereiten und auszuarbeiten;

DASS der genannte Ausschuss den Vertretern der Regierung der Bundesrepublik Deutschland mitgeteilt hat, dass die Regierungen der Französischen Republik, des Vereinigten Königreichs von Grossbritannien und Nordirland und der Vereinigten Staaten von Amerika bereit seien, bedeutende Zugeständnisse hinsichtlich des Vorranges ihrer Forderungen aus der Nachkriegs-Wirtschaftshilfe vor allen anderen Auslandsforderungen an Deutschland und deutsche Staatsangehörige sowie hinsichtlich des Gesamtbeitrages dieser Forderungen zu machen, unter der Bedingung, dass eine befriedigende und gerechte Regelung der deutschen Vorkriegs-Auslandsschulden erreicht wird;

DASS eine derartige Regelung der deutschen Auslandsschulden allein durch einen einheitlichen und umfassenden Plan erreicht werden kann, der dem Verhältnis der Gläubigerinteressen untereinander und den Besonderheiten der verschiedenen Schuldenarten sowie der allgemeinen Lage der Bundesrepublik Deutschland Rechnung trägt;

DASS zu diesem Zweck vom 28. Februar 1952 bis zum 8. August 1952 in London eine internationale Konferenz über Deutsche Auslandsschulden stattgefunden hat, an der Vertreter interessierter Regierungen sowie Vertreter der Gläubiger- und Schuldnerinteressen teilgenommen haben;

DASS diese Vertreter vereinbarte Empfehlungen für Bedingungen und Verfahren der Regelung abgegeben haben (deren Wortlaut in den Anlagen I-VI dieses Abkommens abgedruckt ist); dass diese Empfehlungen dem Bericht der Konferenz über Deutsche Auslandsschulden beigelegt worden sind (dessen Wortlaut im Anhang B dieses Abkommens abgedruckt ist); und dass dieses Abkommen von den in dem genannten Bericht enthaltenen Grundsätzen und Zielsetzungen getragen ist;

DASS die Regierungen der Französischen Republik, des Vereinigten Königreichs von Grossbritannien und Nordirland und der Vereinigten Staaten von Amerika zu dem Ergebnis gekommen sind, dass diese Empfehlungen einen befriedigenden und gerechten Plan für die Regelung der deutschen Auslandsschulden darstellen; und dass die genannten Regierungen daher mit der Regierung der Bundesrepublik Deutschland über die Regelung der Verbindlichkeiten, die sich aus der von den drei Regierungen geleisteten Nachkriegs-Wirtschaftshilfe ergeben, am heutigen Tage zweiseitige Abkommen unterzeichnet haben, in denen ihre geänderten Rechte und Prioritäten in Bezug hierauf niedergelegt sind;

## FOLGENDES VEREINBART:

### ARTIKEL 1

#### *Billigung der Regelungsbedingungen und der Verfahren*

Die Parteien dieses Abkommens betrachten die Bestimmungen des Abkommens und seiner Anlagen als angemessen im Hinblick auf die allgemeine Lage der Bundesrepublik Deutschland sowie als befriedigend und gerecht für die beteiligten Interessen. Sie billigen die in seinen Anlagen niedergelegten Regelungsbedingungen und Verfahren.

### ARTIKEL 2

#### *Durchführung des Abkommens durch die Bundesrepublik Deutschland*

Die Bundesrepublik Deutschland wird die Rechtsvorschriften erlassen und die Verwaltungsmassnahmen treffen, die zur Durchführung dieses Abkommens und seiner Anlagen erforderlich sind; sie wird auch die Rechtsvorschriften und

die Verwaltungsmassnahmen ändern oder aufheben, die mit diesem Abkommen und seinen Anlagen unvereinbar sind.

### ARTIKEL 3

#### *Begriffsbestimmungen*

In diesem Abkommen und in seinen Anlagen IX und X bedeutet, soweit nicht der Zusammenhang eine andere Auslegung erfordert,

- (a) "Gläubiger": eine Person—ausgenommen die Regierung der Bundesrepublik Deutschland—der gegenüber eine Schuld besteht;
- (b) "Gläubigerstaat": einen Staat—ausgenommen die Bundesrepublik Deutschland—dessen Regierung Partei dieses Abkommens wird, mit allen Gebieten, auf die dieses Abkommen gemäss Artikel 37 ausgedehnt wird;
- (c) "Währungsoption": eine Vertragsbestimmung, nach der ein Gläubiger das Recht hat, Zahlung in einer von zwei oder mehr Währungen zu verlangen;
- (d) "Schuld": eine Schuld im Sinne des Artikels 4;
- (e) "festgestellt" (in Bezug auf die Höhe einer Schuld): festgesetzt durch Vereinbarung, durch rechtskräftiges Urteil oder rechtskräftigen Beschluss eines Gerichts oder durch rechtskräftige Entscheidung einer Schiedsinstanz oder durch Rechtsvorschrift;
- (f) "marktfähige Wertpapiere": Aktien, Anteile, Schuldverschreibungen sowie Obligationen und Pfandbriefe, die zur öffentlichen Zeichnung aufgelegt worden sind oder Teil einer Emission bilden, die an einer anerkannten Börse im Handel ist oder war;
- (g) "Regelungsangebot" (bei Anwendung in Bezug auf verbrieft Schulden): ein Angebot des Schuldners über Zahlungs- und sonstige Bedingungen, die für die betreffende Schuld gemäss diesem Abkommen und seinen Anlagen durch Verhandlungen zwischen dem Schuldner und der zuständigen Gläubigervertretung, durch rechtskräftiges Urteil oder rechtskräftigen Beschluss eines Gerichts oder durch rechtskräftige Entscheidung einer Schiedsinstanz festgesetzt worden sind;
- (h) "Partei dieses Abkommens": jede Regierung, für die dieses Abkommen gemäss den Bestimmungen seiner Artikel 35 oder 36 in Kraft getreten ist;
- (i) "Person": natürliche Personen, Personenvereinigungen, juristische Personen des öffentlichen oder privaten Rechts sowie Regierungen einschliesslich staatlicher oder kommunaler Gliederungen und sonstiger Körperschaften des öffentlichen Rechts nebst den für sie handelnden Dienststellen, Personen und Organen;
- (j) "ansässig in": mit gewöhnlichem Aufenthalt in; eine juristische Person oder eine Gesellschaft gilt als in dem Staate ansässig, nach dessen Recht sie errichtet ist, oder, falls sich ihre Hauptniederlassung nicht in diesem Staate befindet, als in dem Staate ansässig, in dessen Registern ihre Hauptniederlassung eingetragen ist;
- (k) "geregelt" (in Bezug auf eine Schuld): dass Zahlungs- und sonstige Bedingungen für eine solche Schuld gemäss den Bestimmungen dieses Abkommens und seiner Anlagen durch Vereinbarung zwischen dem Gläubiger und dem Schuldner oder in einem Verfahren zwischen dem Gläubiger und dem Schuldner durch rechtskräftiges Urteil oder rechtskräftigen Beschluss eines Gerichts oder rechtskräftige Entscheidung einer Schiedsinstanz festgesetzt worden sind;
- (l) "Regelung" (in Bezug auf eine Schuld): die Festsetzung von Zahlungs- und sonstigen Bedingungen gemäss Buchst. k.

## ARTIKEL 4

*Zu regelnde Schulden*

(1) Die gemäss diesem Abkommen und seinen Anlagen zu regelnden Schulden sind

- (a) nichtvertragliche Geldverbindlichkeiten, die der Höhe nach vor dem 8. Mai 1945 festgestellt und fällig waren;
- (b) Geldverbindlichkeiten aus Anleihe- und Kreditverträgen, die vor dem 8. Mai 1945 abgeschlossen wurden;
- (c) Geldverbindlichkeiten aus anderen Verträgen als Anleihe- oder Kreditverträgen, sofern diese Verbindlichkeiten vor dem 8. Mai 1945 fällig waren.

(2) Voraussetzung ist, dass die Schulden

- (a) unter die Bestimmungen der Anlage I dieses Abkommens fallen oder
- (b) von einer Person als Hauptschuldner oder in anderer Weise, als ursprünglich Schuldner oder als Rechtsnachfolger geschuldet werden, die im Währungsgebiet der Deutschen Mark (West) jeweils in dem Zeitpunkt ansässig ist, in dem gemäss diesem Abkommen und seinen Anlagen vom Schuldner ein Regelungsvorschlag gemacht oder vom Gläubiger oder gegebenenfalls bei verbrieften Schulden von der Gläubigervertretung eine Regelung verlangt wird.

(3) Voraussetzung ist ferner, dass die Schulden

- (a) entweder gegenüber der Regierung eines Gläubigerstaates bestehen oder
- (b) gegenüber einer Person bestehen, die jeweils in demjenigen Zeitpunkt in einem Gläubigerstaat ansässig ist oder dessen Staatsangehörigkeit besitzt, in dem gemäss diesem Abkommen und seinen Anlagen vom Schuldner ein Regelungsvorschlag gemacht oder vom Gläubiger eine Regelung verlangt wird, oder
- (c) aus marktfähigen Wertpapieren herrühren, die in einem Gläubigerstaat zahlbar sind.

## ARTIKEL 5

*Nicht unter das Abkommen fallende Forderungen*

(1) Eine Prüfung der aus dem Ersten Weltkriege herrührenden Regierungsforderungen gegen Deutschland wird bis zu einer endgültigen allgemeinen Regelung dieser Angelegenheit zurückgestellt.

(2) Eine Prüfung der aus dem Zweiten Weltkriege herrührenden Forderungen von Staaten, die sich mit Deutschland im Kriegszustand befanden oder deren Gebiet von Deutschland besetzt war, und von Staatsangehörigen dieser Staaten gegen das Reich und im Auftrage des Reichs handelnde Stellen oder Personen, einschliesslich der Kosten der deutschen Besatzung, der während der Besetzung auf Verrechnungskonten erworbenen Guthaben sowie der Forderungen gegen die Reichskreditkassen, wird bis zu der endgültigen Regelung der Reparationsfrage zurückgestellt.

(3) Eine Prüfung der während des Zweiten Weltkrieges entstandenen Forderungen von Staaten, die sich während dieses Krieges mit Deutschland nicht im Kriegszustand befanden oder deren Gebiet nicht von Deutschland besetzt war, und von Staatsangehörigen dieser Staaten gegen das Reich und im Auftrage des Reichs handelnde Stellen oder Personen, einschliesslich der auf Verrechnungskonten erworbenen Guthaben, wird zurückgestellt, bis die Regelung dieser Forderungen im Zusammenhang mit der Regelung der in

Absatz 2 dieses Artikels bezeichneten Forderungen behandelt werden kann (soweit nicht diese Forderungen auf der Grundlage von oder im Zusammenhang mit Abkommen geregelt werden, die von den Regierungen der Französischen Republik, des Vereinigten Königreichs von Grossbritannien und Nordirland und der Vereinigten Staaten von Amerika sowie der Regierung eines solchen Staates unterzeichnet worden sind).

(4) Die gegen Deutschland oder deutsche Staatsangehörige gerichteten Forderungen von Staaten, die vor dem 1. September 1939 in das Reich eingegliedert oder am oder nach dem 1. September 1939 mit dem Reich verbündet waren, und von Staatsangehörigen dieser Staaten aus Verpflichtungen, die zwischen dem Zeitpunkt der Eingliederung (bei mit dem Reich verbündet gewesenen Staaten dem 1. September 1939) und dem 8. Mai 1945 eingegangen worden sind, oder aus Rechten, die in dem genannten Zeitraum erworben worden sind, werden gemäss den Bestimmungen behandelt, die in den einschlägigen Verträgen getroffen worden sind oder noch getroffen werden. Soweit gemäss den Bestimmungen dieser Verträge solche Schulden geregelt werden können, finden die Bestimmungen dieses Abkommens Anwendung.

(5) Die Regelung der Schulden der Stadt Berlin und der im Besitz von Berlin befindlichen oder von Berlin massgebend beeinflussten öffentlichen Versorgungsbetriebe, soweit sie in Berlin liegen, wird bis zu dem Zeitpunkt zurückgestellt, in dem Verhandlungen über die Regelung dieser Schulden von der Regierung der Bundesrepublik Deutschland und dem Senat der Stadt Berlin sowie von den Regierungen der Französischen Republik, des Vereinigten Königreichs von Grossbritannien und Nordirland und der Vereinigten Staaten von Amerika für tunlich angesehen werden.

## ARTIKEL 6

### *Zahlung und Transfer nach dem Abkommen*

Die Bundesrepublik Deutschland wird

- (a) gemäss den Bestimmungen dieses Abkommens und seiner Anlagen Zahlungen und Transfer für solche Schulden vornehmen, für die sie nach diesen Bestimmungen selber haftet;
- (b) gemäss den Bestimmungen dieses Abkommens und seiner Anlagen die Regelung und die Bezahlung von solchen Schulden zulassen, für die eine andere Person als die Bundesrepublik Deutschland haftet, und gemäss den Bestimmungen dieses Abkommens und seiner Anlagen den Transfer von Zahlungen auf geregelte Schulden vorsehen.

## ARTIKEL 7

### *Zahlung und Transfer für bestimmte nach dem Jahre 1945 fällig gewordene Verbindlichkeiten*

Die Bundesrepublik Deutschland wird die Bezahlung von Verbindlichkeiten, die im Zeitpunkt des Inkrafttretens dieses Abkommens ausstehen, und gegebenenfalls entsprechend dem Sinne der einschlägigen Bestimmungen dieses Abkommens und seiner Anlagen den Transfer solcher Zahlungen innerhalb eines angemessenen Zeitraumes gestatten, wenn diese Verbindlichkeiten

- (a) nichtvertragliche Geldverbindlichkeiten sind, die vor dem 8. Mai 1945 begründet und nicht vor diesem Tage der Höhe nach festgestellt und fällig waren, oder

(b) Geldverbindlichkeiten sind, die auf anderen Verträgen als Anleihe- oder Kreditverträgen beruhen, vor dem 8. Mai 1945 begründet waren und an oder nach diesem Tage fällig geworden sind, und wenn sie den Bedingungen der Absätze 2 und 3 des Artikels 4 genügen.

ARTIKEL 8

*Verbot unterschiedlicher Behandlung*

Die Bundesrepublik Deutschland wird bei Erfüllung von Regelungsbedingungen gemäss diesem Abkommen und seinen Anlagen oder auch sonst eine Schlechterstellung oder Bevorzugung weder mit Bezug auf die verschiedenen Schuldenarten noch auf die Währung, in denen die Schulden zu bezahlen sind, noch in anderer Beziehung zulassen; die Gläubigerstaaten werden dies von der Bundesrepublik Deutschland auch nicht verlangen. Eine unterschiedliche Behandlung der verschiedenen Schuldenarten als Folge der Regelung gemäss den Bestimmungen dieses Abkommens und seiner Anlagen gilt nicht als Schlechterstellung oder Bevorzugung.

ARTIKEL 9

*Behandlung von Transferleistungen als Zahlungen für laufende Transaktionen*

Transferleistungen für Zins- und Tilgungszahlungen gemäss diesem Abkommen sind als Zahlungen für laufende Transaktionen zu behandeln und sind, wo es in Betracht kommt, in zwei- oder mehrseitigen Vereinbarungen über den Handels- oder Zahlungsverkehr zwischen der Bundesrepublik Deutschland und den Gläubigerstaaten vorzusehen.

ARTIKEL 10

*Beschränkung und Ausschliessung von Zahlungen*

Die Bundesrepublik Deutschland wird bis zur Erledigung aller Verpflichtungen aus diesem Abkommen und seinen Anlagen sicherstellen, dass keine Zahlungen auf solche Verbindlichkeiten geleistet werden, die zwar im übrigen den Bedingungen des Artikels 4 Absatz 1 und 2 genügen, jedoch gegenüber einer anderen Regierung als der eines Gläubigerstaates oder gegenüber einer Person bestehen, die weder in einem Gläubigerstaat ansässig ist noch dessen Staatsangehörigkeit besitzt, und die in nichtdeutscher Währung zahlbar sind oder waren. Dies gilt nicht für Schulden aus marktfähigen Wertpapieren, die in einem Gläubigerstaat zahlbar sind.

ARTIKEL 11

*Währung der zu zahlenden Beträge*

(1)—(a) Sofern in den Anlagen dieses Abkommens nichts anderes vorgesehen ist, ist eine Schuld ohne Währungsoption in der Währung zu zahlen, in der sie gemäss den Bedingungen des Schuldverhältnisses zahlbar ist. Schulden, die auf deutsche Währung lauten und gemäss den Bestimmungen der Anlagen dieses Abkommens in nichtdeutscher Währung zu zahlen sind, sind, in der Währung des Staates zu zahlen, in dem der Gläubiger ansässig ist.

(b) Ungeachtet der Bestimmungen in Unterabsatz (a) dieses Absatzes sind die jeweils zwischen der Regierung der Bundesrepublik Deutschland und der Regierung eines Gläubigerstaates geltenden Zahlungsabkommen auf Schulden

anzuwenden, die gemäss Unterabsatz (a) in nichtdeutscher Währung an in diesem Staat ansässige Personen zu zahlen sind. Bei Zahlungen auf Schuldverschreibungen, die in nichtdeutscher Währung zahlbar sind und nicht auf die Währung des an dem Zahlungsabkommen beteiligten Staates lauten, sind jedoch die Zahlungsabkommen nur anzuwenden, wenn die Regierung des betreffenden Staates damit einverstanden ist, dass solche Zahlungen an in diesem Staate ansässige Personen in seiner Währung geleistet werden.

(2)—(a) Die Frage, ob auf Schulden mit Währungsoption auch in Zukunft Zahlungen in einer Währung gefordert werden können, die nicht die Währung des Staates ist, in dem die Anleihe aufgenommen oder von dem aus der Kredit gewährt wurde, wird von der Regierung der Bundesrepublik Deutschland und den Regierungen der Staaten, um deren Währungen es sich handelt, in einer zwischen ihnen zu vereinbarenden Weise entschieden werden.

(b) Falls eine Währungsoption die Zahlung eines Festbetrages in einer Alternativwährung vorsieht, kann der Gläubiger den Gegenwert des Betrages der Alternativwährung, der bei Ausübung der Option zu zahlen gewesen wäre, zu dem am Fälligkeitstage massgebenden Umrechnungskurs in der Währung des Staates verlangen, in dem die Anleihe aufgenommen oder von dem aus der Kredit gewährt wurde.

(c) Zahlungen auf Schulden mit Währungsoption, die vor der in Unterabsatz (a) dieses Absatzes vorgesehenen Entscheidung in der Währung des Staates geleistet wurden, in dem die Anleihe aufgenommen oder von dem aus der Kredit gewährt wurde, werden von einer solchen Entscheidung nicht betroffen.

(3) Die Bestimmungen der Absätze 1 und 2 dieses Artikels finden keine Anwendung auf Schulden, die unter die Bestimmungen der Ziffern 2 und 3 der Anlage I dieses Abkommens fallen.

(4) Zwischen der Regierung der Bundesrepublik Deutschland und der Regierung eines Gläubigerstaates jeweils geltende Zahlungsabkommen finden auf die Bezahlung solcher Schulden Anwendung, die unter die Bestimmungen der Absätze 2 und 3 dieses Artikels fallen, sofern die Bezahlung in der Währung des Gläubigerstaates zu erfolgen hat.

(5) Sind aus dem laufenden Geschäft einer eingetragenen Zweigniederlassung eines Gläubigers Schulden entstanden, die vertragsgemäss in dem Staate zu zahlen waren, in dem sich die Zweigniederlassung befindet, so gilt dieser Staat als Gläubigerstaat im Sinne dieses Artikels.

## ARTIKEL 12

### *Behandlung von Goldklauseln*

Bei der Regelung und Erfüllung einer auf nichtdeutsche Währung lautenden Schuld, die auf Goldbasis beruht oder mit Goldklausel versehen ist, ist der zu zahlende Betrag, soweit nicht in den Anlagen dieses Abkommens ausdrücklich etwas anderes bestimmt ist, wie folgt zu berechnen:

- (a) Bei einer Schuld, die nach den zur Zeit der Regelung bestehenden Bedingungen des Schuldverhältnisses auf US-Dollar oder Schweizer Franken lautet oder darin zahlbar ist und auf Goldbasis beruht oder mit Goldklausel versehen ist, wird der zu zahlende Betrag ohne Rücksicht auf die Goldbasis oder die Goldklausel bestimmt. Jeder neue Vertrag zwischen Gläubiger und Schuldner über eine derartige Schuld muss auf US-Dollar oder Schweizer Franken lauten, ohne auf den Wert der Währung in Gold Bezug zu nehmen und ohne eine Goldklausel zu enthalten.

- (b) Bei einer Schuld, die nach den zur Zeit der Regelung bestehenden Bedingungen des Schuldverhältnisses auf eine andere nichtdeutsche Währung lautet oder darin zahlbar ist und auf Goldbasis beruht oder mit Goldklausel versehen ist, wird der zu zahlende Betrag wie folgt bestimmt:
- (i) der Gegenwert des geschuldeten Nennbetrages ist zu dem am Tage der Begründung der Schuld, bei verbrieften Schulden zu dem am Tage der Begebung der Schuldverschreibungen massgebenden Umrechnungskurs in US-Dollar zu errechnen;
  - (ii) der so errechnete Dollarbetrag ist in die Währung, in der die Schuld gemäss Artikel 11 zu zahlen ist, zu dem am Fälligkeitstage massgebenden Umrechnungskurs zwischen dem US-Dollar und dieser Währung umzurechnen; ist der Umrechnungskurs jedoch für den Gläubiger ungünstiger als der zwischen dem US-Dollar und dieser Währung am 1. August 1952 massgebend gewesene, so ist der Umrechnungskurs vom 1. August 1952 zu Grunde zu legen.

### ARTIKEL 13

#### *Umrechnungskurse*

Ist nach den Bestimmungen dieses Abkommens und seiner Anlagen ein Betrag auf der Grundlage eines Umrechnungskurses zu errechnen, so ist dieser Kurs, mit Ausnahme der in Anlage III und in Artikel 8 der Anlage IV dieses Abkommens vorgesehenen Fälle,

- (a) durch die Paritäten zu bestimmen, die mit dem Internationalen Währungsfonds gemäss Abschnitt 1 des Artikels IV des Abkommens über den Internationalen Währungsfonds vereinbart sind und demgemäss für die betreffenden Währungen an dem in Betracht kommenden Tage gelten; oder
- (b) falls an dem in Betracht kommenden Tage keine solchen Paritäten gelten oder galten, der Umrechnungskurs, der in einem zweiseitigen Zahlungsabkommen zwischen den beteiligten Regierungen oder ihren Währungsinstanzen für den laufenden Zahlungsverkehr vereinbart ist; oder
- (c) wenn an dem in Betracht kommenden Tage weder Paritäten noch Umrechnungskurse auf Grund von zweiseitigen Abkommen gelten oder galten, der im Handelsverkehr allgemein gültige mittlere Umrechnungskurs, der für Kabelüberweisungen in der Währung des Staates, in dem die Zahlung zu leisten ist, an der massgebenden Börse des anderen Staates an dem in Betracht kommenden Tage oder gegebenenfalls an einem Vortage gilt oder galt; oder
- (d) wenn an dem in Betracht kommenden Tage kein Umrechnungskurs gemäss den Buchstaben a, b oder c besteht oder bestand, der als *crossrate of exchange* bezeichnete Umrechnungskurs, der sich aus den an diesem Tage oder gegebenenfalls an einem Vortage geltenden Mittelkursen der betreffenden Währungen an der massgebenden Börse eines dritten Staates ergibt, in dem diese Währungen notiert werden.

### ARTIKEL 14

#### *Bestimmungen über Schulden in deutscher Währung*

- (1) Die Bundesrepublik Deutschland wird für alle Reichsmarkschulden, für die sie die Haftung übernommen hat oder noch übernehmen sollte und



die nicht unter Ziffer 6 der Anlage I dieses Abkommens fallen, Massnahmen treffen, die den in dieser Ziffer 6 vorgesehenen Bestimmungen entsprechen.

(2) In Anwendung des Grundsatzes der Inländerbehandlung wird die Bundesrepublik Deutschland ausserdem sicherstellen, dass Schulden aus Reichsmarkschuldverschreibungen, die nicht Goldmarkschulden mit spezifisch ausländischem Charakter sind, die ferner am 21. Juni 1948 gegenüber Personen, die an diesem Tage Staatsangehörige eines Gläubigerstaates oder in einem Gläubigerstaat ansässig waren, bestanden und deren Bezahlung nach der Gesetzgebung im Währungsgebiet der Deutschen Mark (West) nur zu einem bestimmten Teil erzwungen werden kann, in gleicher Weise erfüllt werden wie entsprechende Verbindlichkeiten gegenüber Personen, die im Währungsgebiet der Deutschen Mark (West) ansässig sind.

(3) Bei der Regelung sonstiger in deutscher Währung zahlbarer Schulden gegenüber solchen Staatsangehörigen von Gläubigerstaaten, die im Währungsgebiet der Deutschen Mark (West) ansässig sind, werden die Bedingungen nicht ungünstiger sein als diejenigen, die für entsprechende Verbindlichkeiten gegenüber anderen in diesem Währungsgebiet ansässigen Personen gewährt werden.

## ARTIKEL 15

### *Annahme durch die Gläubiger*

(1) Anspruch auf Vorteile aus irgendeiner Bestimmung dieses Abkommens und seiner Anlagen einschliesslich der darin vorgesehenen Zahlungen haben allein solche Gläubiger, die bei verbrieften Schulden, deren Regelung ein Regelungsangebot voraussetzt, das Angebot annehmen oder die bei sonstigen Schulden mit der Festsetzung von Zahlungs- und sonstigen Bedingungen für die Schuld gemäss den in Betracht kommenden Bestimmungen einverstanden sind.

(2)—(a) Bei verbrieften Schulden, deren Regelung ein Regelungsangebot voraussetzt, erfolgt die Annahme des Regelungsangebots im Sinne des Absatzes 1 dieses Artikels durch Einreichung der alten Schuldverschreibungen oder Zinsscheine

- (i) zum Umtausch, wenn neue Schuldverschreibungen oder Zinsscheine ausgegeben werden, oder
- (ii) zur Anbringung eines Aufdrucks, wenn die Regelungsbedingungen den alten Schuldverschreibungen oder Zinsscheinen aufgedruckt werden sollen.

(b) Der Inhaber einer Schuldverschreibung, die unter Anlage II dieses Abkommens fällt und für die ein Regelungsangebot gemacht worden ist, kann sich binnen einer Mindestfrist von fünf Jahren nach dem Tage der Abgabe des Angebots für dessen Annahme entscheiden. Bei Vorliegen triftiger Gründe hat der Schuldner die Frist zu verlängern.

(3) Bei Schulden, die nicht unter Absatz 2 (a) dieses Artikels fallen, wird, sofern nicht in einer Anlage zu diesem Abkommen eine bestimmte Form vorgesehen ist, das Einverständnis des Gläubigers mit der Festsetzung von Zahlungs- und sonstigen Bedingungen im Sinne des Absatzes 1 dieses Artikels als gegeben angesehen, wenn der Gläubiger in irgendeiner Weise sein Einverständnis klar zum Ausdruck bringt.

(4) Ein Schuldner ist den Verfahren, wie sie in diesem Abkommen und seinen einschlägigen Anlagen für die Regelung von Schulden vorgesehen sind, nur dann unterworfen, wenn er bezüglich seiner Schuld gemäss den Bestimmungen der für sie einschlägigen Anlage dieses Abkommens einen Regelungsvorschlag gemacht oder eine Beitrittserklärung abgegeben hat. Jedoch lässt dieser Absatz die Bestimmungen des Artikels 17 dieses Abkommens unberührt.

(5) Die Bundesrepublik Deutschland ist berechtigt, in Ausführung des Artikels 2 dieses Abkommens den Vorschriften der vorstehenden Absätze Rechnung zu tragen.

ARTIKEL 16

*Erlöschen der Schuld*

Hat der Schuldner seine nach diesem Abkommen und dessen Anlagen geregelte Schuld erfüllt, so ist er damit auch von allen Verbindlichkeiten aus dieser Schuld, wie sie vor der Regelung bestand, befreit, sofern diese Verbindlichkeiten nicht schon durch Vereinbarung erloschen waren.

ARTIKEL 17

*Durchsetzung der Rechte der Gläubiger*

(1) Die Bundesrepublik Deutschland wird dem Gläubiger das Recht gewährleisten, innerhalb der Grenzen dieses Abkommens und seiner Anlagen durch deutsche Gerichte und mit Hilfe deutscher Behörden

(a) seine Rechte in Bezug auf eine Schuld, wie sie in dem Zeitpunkt bestehen, in dem gemäss diesem Artikel Klage erhoben wird, durchzusetzen, falls der Gläubiger und der Schuldner sich über die Regelungsbedingungen nicht einigen und der Gläubiger sein Einverständnis damit erklärt, dass die deutschen Gerichte die Zahlungs- und sonstigen Bedingungen für die Schuld gemäss den Bestimmungen dieses Abkommens und seiner Anlagen festsetzen;

(b) seine Rechte gemäss den Bedingungen der geregelten Schuld durchzusetzen, wenn der Schuldner seine Verpflichtungen gemäss diesen Bedingungen nicht erfüllt; dies gilt auch für die Rechte, die der Gläubiger gemäss den Bestimmungen dieses Abkommens und seiner Anlagen ausüben kann, wenn der Schuldner seine Verpflichtungen nicht erfüllt; der Gläubiger kann jedoch die Zahlung eines durch die Nichterfüllung der Schuld fällig werdenden Kapitalbetrages nach dem Ausland nicht eher verlangen, als es der Fall gewesen wäre, wenn der Schuldner seine Verpflichtungen erfüllt hätte.

(2) Dem Gläubiger steht das in Absatz 1 dieses Artikels vorgesehene Recht nicht zu, wenn die Streitigkeit in dem Zeitpunkt, in dem das in Absatz 1 dieses Artikels vorgesehene Recht geltend gemacht werden soll, nach den Bestimmungen des betreffenden Vertrages oder dieses Abkommens und seiner Anlagen der ausschliesslichen Zuständigkeit eines Gerichts in einem Gläubigerstaate oder einer Schiedsinstanz unterliegt. Ist eine solche ausschliessliche Zuständigkeit in den Bestimmungen des betreffenden Vertrages vorgesehen, so können Schuldner und Gläubiger im gegenseitigen Einvernehmen darauf verzichten; dem Gläubiger steht in diesem Falle das in Absatz 1 dieses Artikels vorgesehene Recht zu.

(3)—(a) Die Bundesrepublik Deutschland wird ohne Rücksicht darauf, ob die Gegenseitigkeit für die Anerkennung und Vollstreckung von Entscheidungen zwischen dem Staat, in dem die Entscheidung ergangen ist, und der Bundesrepublik Deutschland verbürgt ist, dem Gläubiger das Recht gewährleisten, nach Massgabe der Bestimmungen der Absätze 1 und 4 dieses Artikels durch deutsche Gerichte und mit Hilfe deutscher Behörden rechtskräftige Entscheidungen von Gerichten und Schiedsinstanzen über eine Schuld durchzusetzen, sofern die Entscheidungen ergangen sind

- (i) in einem Gläubigerstaate nach dem Inkrafttreten dieses Abkommens;
- (ii) in einem Gläubigerstaate vor dem Inkrafttreten dieses Abkommens, wenn der Schuldner die durch die Entscheidung festgesetzte Schuld nicht bestreitet.

(b) Die deutschen Gerichte werden in anderen Verfahren über Schulden, die den Gegenstand einer rechtskräftigen Entscheidung bilden, die von einem Gericht oder einer Schiedsinstanz in einem Gläubigerstaate vor dem Inkrafttreten dieses Abkommens erlassen ist, die Tatsachen, auf denen die Entscheidung beruht, als bewiesen ansehen, es sei denn, dass der Schuldner Beweis für das Gegenteil antritt. In diesem Falle ist der Gläubiger seinerseits berechtigt, Gegenbeweis anzutreten und sich dabei auch auf das Beweisprotokoll des früheren Verfahrens zu beziehen. Der Betrag einer nichtvertraglichen Geldverbindlichkeit, der in einem Verfahren nach diesem Absatz durch eine Entscheidung eines deutschen Gerichts festgesetzt wird, gilt im Sinne des Artikels 4 Absatz 1 Buchst. a dieses Abkommens als in dem Zeitpunkt festgestellt, in dem die rechtskräftige Entscheidung des Gerichts oder der Schiedsinstanz in einem Gläubigerstaate ergangen ist.

(c) Die Bundesrepublik Deutschland wird dem Gläubiger das Recht gewährleisten, nach Massgabe der Bestimmungen des Absatzes 1 dieses Artikels durch deutsche Gerichte und mit Hilfe deutscher Behörden rechtskräftige Entscheidungen von Gerichten und Schiedsinstanzen über eine Schuld durchzusetzen, die in Deutschland vor dem 8. Mai 1945 oder innerhalb des Währungsgebietes der Deutschen Mark (West) nach dem 8. Mai 1945 ergangen sind.

(4) Die deutschen Gerichte können es ablehnen, die Entscheidung eines ausländischen Gerichts oder einer Schiedsinstanz—ausgenommen Entscheidungen einer nach den Bestimmungen dieses Abkommens und seiner Anlagen errichteten Schiedsinstanz—gemäss den Bestimmungen des Absatzes 3 dieses Artikels anzuerkennen und zu vollstrecken,

- (a) wenn das Gericht, das die Entscheidung erlassen hat, nicht zuständig war oder die Zuständigkeit der Schiedsinstanz, welche die Entscheidung erlassen hat, nicht auf der Vereinbarung der beteiligten Parteien beruhte; oder
- (b) wenn dem Schuldner in dem Verfahren, das zu der Entscheidung des Gerichts oder der Schiedsinstanz geführt hat, das rechtliche Gehör nicht gewährt war; oder
- (c) wenn die Anerkennung der Entscheidung gegen den *ordre public* in der Bundesrepublik Deutschland verstossen würde; jedoch darf der Umstand, dass eine Entscheidung mit den Bestimmungen dieses Abkommens und seiner Anlagen nicht im Einklang steht, nicht dazu führen, dass ihre Anerkennung und Vollstreckung, und zwar innerhalb der Grenzen dieses Abkommens und seiner Anlagen, als Verstoß gegen den *ordre public* im Sinne dieser Bestimmung angesehen wird.

(5) Die Bundesrepublik Deutschland wird den in der Anlage I dieses Abkommens genannten Vereinigungen von Wertpapierinhabern (Bondholders' Councils) oder entsprechenden Vereinigungen und den in Artikel VIII der Anlage II dieses Abkommens erwähnten Gläubigerververtretungen das Recht gewährleisten, die Bedingungen des Regelungsangebots durch deutsche Gerichte und mit Hilfe deutscher Behörden festsetzen zu lassen, falls der Schuldner—ausgenommen die Bundesrepublik Deutschland—es unterlässt, einen Vorschlag zur Regelung seiner bestehenden verbrieften Schuld gemäss den einschlägigen Bestimmungen der Anlagen I und II dieses Abkommens zu machen.

(6)—(a) Ein Schuldner, der es unterlässt, einen Regelungsvorschlag gemäss Anlage I oder II dieses Abkommens zu machen, hat in einem nach den Absätzen 1, 3 oder 5 dieses Artikels vor einem deutschen Gericht anhängig gemachten Verfahren keinen Anspruch auf die Vorteile der in Ziffer 7 Absatz 1 Buchst. e der Anlage I oder in Artikel V Absatz 11 der Anlage II dieses Abkommens enthaltenen Härteklauseln. Bei der Festsetzung der

Bedingungen des Regelungsangebots oder der Bedingungen für die Regelung der Schuld hat das Gericht die kürzeste Laufzeit festzusetzen, die gemäss den Bestimmungen der betreffenden Anlage bei der Regelung der Schuld in Betracht kommt. Das Gericht hat in seinem Urteil auszusprechen, dass der Schuldner dem Kläger die in Ziffer 7 Buchst. h der Anlage I dieses Abkommens oder in Artikel X Absatz 2 der Anlage II dieses Abkommens erwähnten Kosten zu erstatten hat; diese Kosten sind sofort fällig und zahlbar. Das Gericht hat ferner den Schuldner zur Tragung der Kosten des Verfahrens und aller im Zusammenhang mit dem Verfahren entstandener angemessener Kosten und Auslagen zu verurteilen, die bei einer nichtverbrieften Schuld dem Gläubiger oder bei einer verbrieften Schuld der Vereinigung der Wertpapierinhaber (Bondholders' Council) oder einer entsprechenden Vereinigung oder der Gläubigervertretung entstanden sind.

(b) Wenn ein Schuldner es unterlässt, seinen Beitritt gemäss Ziffer 22 der Anlage III dieses Abkommens zu vollziehen, ist der Gläubiger berechtigt, in einem nach den Absätzen 1 oder 3 dieses Artikels anhängig gemachten Verfahren seine Rechte gemäss den Bestimmungen der genannten Anlage durchzusetzen, jedoch, sofern es sich um eine unmittelbar gegenüber dem Gläubiger bestehende Schuld eines deutschen Handels- oder Industrieschuldners im Sinne der genannten Anlage handelt, erst nach Ablauf von 30 Tagen nach der ersten Sitzung des in Ziffer 17 der genannten Anlage vorgesehenen Beratenden Ausschusses. Verurteilt das Gericht den Schuldner zur Zahlung der Schuld gemäss dieser Anlage, so hat das Gericht den Schuldner zur Tragung der Kosten des Verfahrens und aller im Zusammenhang mit dem Verfahren entstandener angemessener Kosten und Auslagen des Gläubigers zu verurteilen.

(c) Ein Schuldner, der es unterlässt, die gemäss Artikel 14 der Anlage IV dieses Abkommens erforderliche Beitrittserklärung abzugeben, hat in einem nach den Absätzen 1 oder 3 dieses Artikels vor einem deutschen Gericht anhängig gemachten Verfahren keinen Anspruch auf die Vorteile der in Artikel 11 dieser Anlage enthaltenen Härteklauseel. Hat der Schuldner die Abgabe der Erklärung lediglich deshalb unterlassen, weil er das Bestehen der Schuld bestritten hat, so verliert er den Anspruch auf die Vorteile der Härteklauseel nicht; er kann jedoch, sofern das in Artikel 15 der Anlage IV dieses Abkommens erwähnte Gericht oder Schiedsgericht das Bestehen der Schuld bejaht, die Vorteile der Härteklauseel nur in Anspruch nehmen, wenn er binnen 30 Tagen, gerechnet vom Tage der Zustellung der rechtskräftigen Entscheidung des Gerichts, die erforderliche Erklärung abgibt. Kann der Schuldner in einem Verfahren gemäss diesem Unterabsatz dann die Vorteile der Härteklauseel nicht in Anspruch nehmen, so hat das Gericht den Schuldner zur Tragung der Gerichtskosten und angemessener Anwaltskosten des Klägers zu verurteilen.

(7) Die Bundesrepublik Deutschland wird dem Gläubiger das Recht gewährleisten, innerhalb der Grenzen dieses Abkommens und seiner Anlagen durch deutsche Gerichte und mit Hilfe deutscher Behörden seine Ansprüche gegen eine Person, die im Währungsgebiet der Deutschen Mark (Ost) ansässig ist, durch Befriedigung aus dem im Währungsgebiet der Deutschen Mark (West) belegenen Vermögen dieser Person durchzusetzen, wenn die Ansprüche aus einer Verbindlichkeit herrühren, die den Erfordernissen des Artikels 4 dieses Abkommens—abgesehen von den Erfordernissen hinsichtlich der Ansässigkeit des Schuldners—entspricht. Der Gläubiger kann Zahlung der ihm auf diese Weise zugeflossenen Beträge nach dem Ausland nur nach Massgabe der jeweils im Währungsgebiet der Deutschen Mark (West) geltenden Devisenbestimmungen verlangen.

## ARTIKEL 18

### *Verjährungsfristen*

(1) Der Schuldner ist nicht berechtigt, sich bei der Aufstellung eines Regelungsangebots oder bei der Regelung einer Schuld auf den Ablauf einer bis zum 1. Juni 1933 noch nicht abgelaufenen Verjährungs- oder Ausschlussfrist für die Geltendmachung von Ansprüchen aus diesem Schuldverhältnis früher zu berufen, als von dem Zeitpunkt ab, der sich dadurch ergibt, dass der Lauf der betreffenden Frist vom 1. Juni 1933 bis zum Ablauf von 18 Monaten nach dem Zeitpunkt als gehemmt angesehen wird, in dem dieses Abkommen und die in Betracht kommende Anlage dieses Abkommens auf die Schuld anwendbar werden.

(2) Unbeschadet der Bestimmungen des Absatzes 1 dieses Artikels gelten für den Zweck einer Regelung die in Absatz 1 erwähnten Verjährungs- und Ausschlussfristen, die auf die in den Abschnitten A und B der Anlage I dieses Abkommens bezeichneten verbrieften Schulden und auf die in Anlage II dieses Abkommens behandelten Schulden anwendbar sind, als nicht vor den jeweiligen Zeitpunkten abgelaufen, von denen ab gemäss den Bestimmungen der Anlage I Ziffer 8 (b) und des Artikels 15 dieses Abkommens die Annahme des vom Schuldner gemachten Regelungsangebotes nicht mehr erfolgen kann.

(3) Nimmt der Gläubiger gemäss den Bestimmungen des Artikels 15 dieses Abkommens ein Regelungsangebot an oder gibt er gemäss den gleichen Bestimmungen sein Einverständnis mit der Regelung einer Schuld, so wird damit eine Unterbrechung der Verjährungs- und Ausschlussfristen für die Geltendmachung eines Anspruchs aus diesem Schuldverhältnis bewirkt.

(4) Die in den Absätzen 1, 2 und 3 dieses Artikels erwähnten Fristen umfassen nicht Fristen für die Einlegung eines Rechtsbehelfs gegen Entscheidungen eines Gerichts, einer Schiedsinstanz oder einer Verwaltungsbehörde, ferner nicht die in § 12 Absatz 3 des deutschen Gesetzes über den Versicherungsvertrag und die in den deutschen Gesetzen über die Wertpapierbereinigung bestimmten Fristen.

(5) Die vorstehenden Bestimmungen gelten ohne Rücksicht darauf, ob die Fristen durch deutsches oder ein anderes Recht, durch Verfügung eines Gerichts, einer Schiedsinstanz oder einer Verwaltungsbehörde, durch Vertrag oder eine andere Rechtshandlung bestimmt worden sind. Die Bundesrepublik Deutschland wird sicherstellen, dass die vorstehenden Bestimmungen auch dann von deutschen Gerichten angewandt werden, wenn das Schuldverhältnis seinem Inhalt nach ausländischem Recht unterliegt.

## ARTIKEL 19

### *Ergänzende Abkommen*

(1) Abkommen auf Grund von Verhandlungen gemäss

- (a) Ziffer 11 der Anlage I dieses Abkommens (Forderungen aus Sprüchen des deutsch-griechischen Schiedsgerichts),
- (b) Ziffer 15 der Anlage I dieses Abkommens (Haftung für österreichische Regierungsschulden),
- (c) Artikel 10 der Anlage IV dieses Abkommens (Zahlungen in die Deutsche Verrechnungskasse),
- (d) der Unteranlage zu Anlage IV dieses Abkommens (Schweizerfranken-Grundsulden)

sind von der Regierung der Bundesrepublik Deutschland (gegebenenfalls nach Genehmigung durch diese) den Regierungen der Französischen Republik, des

Vereinigten Königreichs von Grossbritannien und Nordirland und der Vereinigten Staaten von Amerika zur Genehmigung vorzulegen.

(2) Jede dieser Vereinbarungen soll nach Genehmigung durch die genannten Regierungen in Kraft treten und in jeder Hinsicht als Anlage dieses Abkommens gelten. Die Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland wird allen Parteien dieses Abkommens eine Notifikation hierüber zugehen lassen.

ARTIKEL 20

*Reichsschulden aus mehrseitigen Abkommen*

Zahlungen auf solche Schulden des Reichs oder im Auftrage des Reichs handelnder Stellen oder Personen, die aus dem Rückstand von Beiträgen oder aus Dienstleistungen auf Grund der Bestimmungen eines mehrseitigen internationalen Abkommens oder der Satzung einer internationalen Organisation herrühren, werden durch die Bestimmungen dieses Abkommens nicht ausgeschlossen. Die Regierung der Bundesrepublik Deutschland wird auf Antrag der beteiligten Gläubiger in unmittelbare Verhandlungen über diese Schulden eintreten.

ARTIKEL 21

*Erneuerung des in Anlage III enthaltenen Kreditabkommens*

Anlage III dieses Abkommens umfasst alle Kreditabkommen, die nach dem Tage des Inkrafttretens dieses Abkommens zum Zwecke der Erneuerung des in dieser Anlage enthaltenen Kreditabkommens abgeschlossen werden. Jedes derartige Kreditabkommen kann Änderungen der Bestimmungen der Anlage III enthalten, muss jedoch darauf gerichtet sein, Mittel und Wege zur Wiederherstellung normaler Bedingungen für die Finanzierung des Aussenhandels der Bundesrepublik Deutschland in Übereinstimmung mit dem allgemeinen Zweck dieses Abkommens zu schaffen.

ARTIKEL 22

*Sozialversicherungsansprüche*

(1) Die Regierung der Bundesrepublik Deutschland wird mit den Regierungen der beteiligten Gläubigerstaaten in Verhandlungen zum Zwecke der Regelung der Sozialversicherungsansprüche eintreten, die nach den deutschen, vor dem 8. Mai 1945 in Kraft gewesenen Gesetzen und Verordnungen für irgendeinen Zeitraum vor dem 8. Mai 1945 erwachsen sind, soweit solche Ansprüche nach der Gesetzgebung der Bundesrepublik Deutschland oder auf Grund von ihr übernommener Verpflichtungen als Verbindlichkeiten der Bundesrepublik Deutschland oder als Verbindlichkeiten von Sozialversicherungsträgern im Gebiet der Bundesrepublik Deutschland anzusehen und nicht bereits in einem Abkommen mit der Regierung des beteiligten Gläubigerstaates behandelt worden sind. Das schliesst nicht aus, dass in solche Abkommen Bestimmungen aufgenommen werden, wonach in der Bundesrepublik Deutschland für die Sozialversicherung geltende Gesetze oder Verordnungen, die für Staatsangehörige anderer Staaten eine ungünstigere Behandlung als für deutsche Staatsangehörige vorsehen, keine Anwendung finden.

(2) Die Bundesrepublik Deutschland wird für die Regelung und für den Transfer in Bezug auf die in dem vorhergehenden Absatz erwähnten Ansprüche, die nicht in Abkommen mit Regierungen von Gläubigerstaaten behandelt sind, Sorge tragen, vorausgesetzt, dass die Ansprüche Personen

zustehen, die Staatsangehörige eines solchen Gläubigerstaates oder in einem solchen Gläubigerstaat ansässig sind, aus dem Zahlungen auf gleichartige Ansprüche an Personen, die Staatsangehörige der Bundesrepublik Deutschland oder in der Bundesrepublik Deutschland ansässig sind, ebenfalls transferiert werden können. Die in der Bundesrepublik Deutschland für die Sozialversicherung geltenden Gesetze und Verordnungen, die für Staatsangehörige anderer Staaten eine ungünstigere Behandlung als für deutsche Staatsangehörige vorsehen, finden dann keine Anwendung, wenn der beteiligte Gläubigerstaat mit Bezug auf Sozialversicherungszahlungen zwischen seinen Staatsangehörigen und deutschen Staatsangehörigen oder zwischen Personen, die in dem betreffenden Staat ansässig sind, und Personen, die in der Bundesrepublik Deutschland ansässig sind, nicht diskriminiert.

(3) Aus Sozialversicherungsleistungen erwachsene Ansprüche im Sinne des Absatzes 1 dieses Artikels, die Personen zustehen, die Staatsangehörige eines Gläubigerstaates oder in einem Gläubigerstaat ansässig sind, und die nicht nach den Bestimmungen der Absätze 1 oder 2 dieses Artikels geregelt werden, sollen nach den Bestimmungen des Artikels 28 der Anlage IV dieses Abkommens geregelt werden.

## ARTIKEL 23

### *Schulden aus der Privatversicherung*

(1) Sind in zweiseitigen Vereinbarungen, die in Durchführung von Artikel 30 Absatz 1 der Anlage IV dieses Abkommens getroffen werden, Vorschriften über den Transfer von Zahlungen oder über Bezahlung in Deutscher Mark von solchen Schulden enthalten, die sich aus Versicherungs- oder Rückversicherungsverträgen oder -vereinbarungen irgendeiner Art ergeben oder mit derartigen Verträgen oder Vereinbarungen im Zusammenhang stehen, so müssen diese Vorschriften mit den Bestimmungen über die Regelung anderer Schuldenarten im Einklang stehen.

(2) Soweit bis zum 30. Juni 1953 keine zweiseitigen Vereinbarungen getroffen worden sind, werden die aus Versicherungs- und Rückversicherungsverträgen herrührenden Schulden gemäss den Bestimmungen von Artikel 30 Absatz 2 und Artikel 31 der Anlage IV dieses Abkommens geregelt. Die Frist bis zum 30. Juni 1953 kann durch Übereinkunft verlängert werden. Gläubiger, die in Staaten ansässig sind, mit denen bis dahin zweiseitige Vereinbarungen nicht getroffen sein werden, sollen hinsichtlich des Transfers von Zahlungen oder der Bezahlung in Deutscher Mark für jede Art von Schulden die günstigsten Bedingungen geniessen, die in einer gemäss Absatz 1 dieses Artikels geschlossenen zweiseitigen Vereinbarung für Schulden der gleichen Art vorgesehen sind.

## ARTIKEL 24

### *Anwendung des Abkommens auf Berlin*

(1) Nach Massgabe der Bestimmungen von Artikel 4 Absatz 2 Buchst. b und Artikel 5 Absatz 5 erstreckt sich dieses Abkommen auf Berlin, das in den Grenzen seiner Zuständigkeit Verpflichtungen, die den von der Bundesrepublik Deutschland in diesem Abkommen und seinen Anlagen übernommenen entsprechen, ausführen wird.

(2) Dieses Abkommen soll bei oder nach seinem Inkrafttreten gemäss Artikel 35 Absatz 2 für Berlin in Kraft treten, sobald die Regierung der

Bundesrepublik Deutschland bei der Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland die Erklärung hinterlegt, dass allen in Berlin geltenden Rechtsvorschriften über das zur Anwendung dieses Abkommens auf Berlin erforderliche Verfahren genügt worden ist.

#### ARTIKEL 25

##### *Verfahren bei der Wiedervereinigung Deutschlands*

Bei der Wiedervereinigung Deutschlands werden die Parteien dieses Abkommens das Abkommen einer Nachprüfung unterziehen, und zwar ausschliesslich mit dem Ziele,

- (a) die Bestimmungen der Anlagen dieses Abkommens über Anpassungen, die bei bestimmten Schulden im Falle der Wiedervereinigung vorzunehmen sein werden, auszuführen, soweit sie dann nicht ohne weiteres wirksam werden sollen, und
- (b) die Bestimmungen dieses Abkommens auf die Schulden von Personen auszudehnen, die in dem mit der Bundesrepublik Deutschland wiedervereinigten Gebiet ansässig sind, und
- (c) angemessene Anpassungen mit Bezug auf Schulden vorzunehmen, bei deren Regelung der Verlust von Vermögenswerten, die in dem mit der Bundesrepublik Deutschland wiedervereinigten Gebiet belegen sind, oder die Unmöglichkeit ihrer Verwendung berücksichtigt worden ist.

#### ARTIKEL 26

##### *Frühere Abkommen*

Keine Bestimmung dieses Abkommens berührt die Wirksamkeit anderer Abkommen zur Regelung von Verbindlichkeiten, welche die Regierung der Bundesrepublik Deutschland vor dem Inkrafttreten dieses Abkommens geschlossen hat.

#### ARTIKEL 27

##### *Vorrang des Abkommens gegenüber seinen Anlagen*

Falls Bestimmungen dieses Abkommens mit Bestimmungen einer seiner Anlagen nicht übereinstimmen, sind die Bestimmungen des Abkommens massgebend.

#### ARTIKEL 28

##### *Schiedsgerichtshof*

(1) Der Schiedsgerichtshof für das Abkommen über Deutsche Auslandsschulden (im folgenden als "Schiedsgerichtshof" bezeichnet) wird für die nachstehend angegebenen Zwecke errichtet. Die Bestimmungen über die Zusammensetzung und den Aufbau des Schiedsgerichtshofes sowie die Bestimmungen über die Ausübung seiner Gerichtsbarkeit sind in der Satzung enthalten, die diesem Abkommen als Anlage IX beigelegt ist.

(2) Nach Massgabe der Bestimmungen des Absatzes 5 dieses Artikels ist der Schiedsgerichtshof ausschliesslich zuständig für alle diejenigen Streitigkeiten zwischen zwei oder mehr Parteien dieses Abkommens über die Auslegung oder Anwendung des Abkommens oder seiner Anlagen, welche die Parteien nicht im Verhandlungswege beilegen können; jedoch gehören Streitigkeiten über die Auslegung oder Anwendung des Artikels 34 dieses Abkommens nicht zur Zuständigkeit des Schiedsgerichtshofes oder anderer Gerichte oder Schiedsinstanzen. Ist die Bundesrepublik Deutschland an einem



Verfahren vor dem Schiedsgerichtshof, das eine Streitigkeit zwischen Parteien dieses Abkommens betrifft, nicht beteiligt, so wird sie auf Verlangen einer beteiligten Partei ihrerseits an dem Verfahren als Partei teilnehmen.

(3) Der Schiedsgerichtshof ist ausschliesslich zuständig für Verfahren über die in Artikel 16 Absatz 2 der Anlage IV dieses Abkommens erwähnten Fragen, die für die Auslegung der genannten Anlage grundsätzliche Bedeutung haben und ihm von einer Partei dieses Abkommens vorgelegt werden. Die Bestimmungen dieses Absatzes berühren nicht die Zuständigkeit der Gemischten Kommission, wie sie in Artikel 31 Absatz 2 dieses Abkommens geregelt ist.

(4) Der Schiedsgerichtshof ist ausschliesslich zuständig für Anrufungsverfahren, die gemäss den Bestimmungen des Artikels 31 Absatz 7 dieses Abkommens anhängig gemacht werden.

(5) Unbeschadet der Bestimmungen der Absätze 3 und 4 dieses Artikels ist der Schiedsgerichtshof nicht zuständig für Streitigkeiten, die sich ausschliesslich auf die Auslegung oder Anwendung einer Anlage dieses Abkommens beziehen, sofern eine gemäss dieser Anlage errichtete Schiedsinstanz für die Entscheidung der betreffenden Frage über die Auslegung oder Anwendung zuständig ist. Diese Bestimmung bedeutet keine Einschränkung der Zuständigkeit des Schiedsgerichtshofes bei Streitigkeiten über die Frage, ob eine Entscheidung einer solchen Schiedsinstanz in Widerspruch zu Bestimmungen dieses Abkommens steht.

(6) Jede Partei dieses Abkommens, die an dem Gegenstand eines Verfahrens vor dem Schiedsgerichtshof interessiert ist, ist berechtigt, an dem Verfahren als Partei teilzunehmen.

(7) Der Schiedsgerichtshof hat das Recht, Fragen, die sich auf seine Zuständigkeit beziehen, nach Massgabe der vorstehenden Bestimmungen dieses Artikels selbst zu entscheiden.

(8) Die Entscheidung des Schiedsgerichtshofes ist endgültig und bindend

- (a) in einem Verfahren gemäss Absatz 2 dieses Artikels für die Parteien der Streitigkeit und für jede andere Partei dieses Abkommens, die an dem Verfahren als Partei teilnimmt;
- (b) in einem Verfahren gemäss Absatz 3 dieses Artikels für die Partei dieses Abkommens, welche die Frage dem Schiedsgerichtshof vorgelegt hat, und für jede andere Partei dieses Abkommens, die an dem Verfahren als Partei teilnimmt;
- (c) in einem Anrufungsverfahren gemäss Absatz 4 dieses Artikels für die Partei oder die Parteien des Anrufungsverfahrens.

(9) Die Entscheidungsbefugnis des Schiedsgerichtshofes wird nicht dadurch berührt, dass eine Partei der Streitigkeit sich auf das vor dem Schiedsgerichtshof anhängige Verfahren nicht einlässt.

(10) Alle gemäss diesem Abkommen und seinen Anlagen errichteten Schiedsinstanzen, ausgenommen der Schiedsgerichtshof selbst, sind bei der Entscheidung über die Auslegung oder Anwendung dieses Abkommens und seiner Anlagen an die einschlägigen Entscheidungen des Schiedsgerichtshofes gebunden.

(11) Auf Ersuchen einer Partei dieses Abkommens erstattet der Schiedsgerichtshof Gutachten über die Auslegung oder Anwendung dieses Abkommens (ausgenommen die Auslegung oder Anwendung des Artikels 34 dieses Abkommens). Solche Gutachten haben keine bindende Wirkung.

## ARTIKEL 29

### *Schiedsverfahren nach Anlage I*

(1) An Verfahren vor einem Schiedsgericht, das für die Entscheidung von Streitigkeiten gemäss Ziffer 7 Absatz 1 Buchst. g der Anlage I dieses

Abkommens vorgesehen ist, können nur diejenigen Vereinigungen von Wertpapierinhabern (Bondholders' Councils) oder entsprechende Vereinigungen, die von den Regierungen der Staaten, in denen sie gebildet sind, als Vertreter der Wertpapierinhaber in diesen Staaten anerkannt sind (im folgenden als "Gläubigervertretungen" bezeichnet) auf der einen Seite und Schuldner auf der anderen Seite als Parteien teilnehmen.

(2) Ein Schiedsgericht der in dem vorstehenden Absatz bezeichneten Art besteht, sofern die Parteien nichts anderes vereinbaren, aus drei in folgender Weise ernannten Mitgliedern:

- (a) einem Mitglied, das vom Schuldner zu ernennen ist;
- (b) einem Mitglied, das von der betreffenden Gläubigervertretung zu ernennen ist, oder, wenn mehrere Gläubigervertretungen beteiligt sind, von diesen gemeinsam;
- (c) einem dritten Mitglied als Obmann, das von den gemäss den Buchstaben *a* und *b* dieses Absatzes ernannten Schiedsrichtern zu wählen ist. Der Obmann darf weder die deutsche Staatsangehörigkeit noch diejenige eines Staates besitzen, in dem eine als Partei an dem Verfahren teilnehmende Gläubigervertretung gebildet ist.

(3) Binnen 90 Tagen, gerechnet von dem Tage, an dem eine der Parteien des Verfahrens der anderen Partei die Ernennung ihres Schiedsrichters mitgeteilt hat, hat die andere Partei ihrerseits einen Schiedsrichter zu ernennen. Ernennet die andere Partei ihren Schiedsrichter nicht innerhalb der vorgeschriebenen Frist, so wird er auf Antrag der Partei, welche die Mitteilung gemacht hat, von der Internationalen Handelskammer ernannt.

(4) Einigen sich die beiden Schiedsrichter binnen 30 Tagen, gerechnet von dem Tage der Ernennung des zuletzt ernannten Schiedsrichters, nicht auf einen Obmann, so wird er auf Antrag eines der beiden Schiedsrichter durch die Internationale Handelskammer ernannt. Die Bestimmung des Absatzes 2 Buchst. *c* dieses Artikels über die Staatsangehörigkeit gilt auch für diese Ernennung.

(5) Stirbt ein Mitglied des Schiedsgerichts oder fällt ein Mitglied wegen Erkrankung, Niederlegung des Amtes oder Nichtausübung seiner Amtspflichten aus, so wird die Stelle binnen 30 Tagen, nachdem sie frei geworden ist, in gleicher Weise wie bei der ursprünglichen Ernennung neu besetzt.

(6) Das Schiedsgericht gibt sich seine eigene Verfahrensordnung. Ist eine solche Verfahrensordnung nicht erlassen oder regelt sie das Verfahren nicht erschöpfend, so ist insoweit die Schiedsgerichtsordnung der Internationalen Handelskammer anzuwenden.

(7) Die Entscheidung des Schiedsgerichts über die Konversion, die Gegenstand des schiedsgerichtlichen Verfahrens war, ist hinsichtlich der Bedingungen des Regelungsangebotes für die Parteien des Verfahrens bindend; die Gläubigervertretung hat den Wertpapierinhabern die Annahme des Angebotes zu empfehlen, sofern das Angebot den anderen in der Anlage I dieses Abkommens festgelegten Erfordernissen entspricht.

## ARTIKEL 30

### *Beteiligung der Anleihetrehänder nach Anlage II*

(1) Der gemäss Artikel IX der Anlage II dieses Abkommens errichtete Schieds- und Vermittlungsausschuss macht dem Treuhänder einer verbrieften Schuld, auf welche die genannte Anlage Anwendung findet, Mitteilung von jedem bei dem Ausschuss anhängigen Verfahren über die Regelung der Schuld. Der Treuhänder kann binnen 20 Tagen nach Zustellung der Mitteilung an dem Verfahren als Partei teilnehmen.

(2) Um den Treuhänder einer verbrieften Schuld bei der Entlastung von einer Verantwortung zu unterstützen, die er gegenüber Inhabern dieser Schuldverschreibungen gegebenenfalls hat, wird der Schuldner in dem Zeitpunkt, in dem er der Gläubigervertretung gemäss Artikel VII der Anlage II dieses Abkommens einen Vorschlag für ein Regelungsangebot vorlegt, dem Treuhänder dieser Schuldverschreibungen ebenfalls eine Abschrift davon vorlegen. Der Treuhänder kann dem Schuldner und der Gläubigervertretung die Einwendungen mitteilen, die er gegen die Bedingungen des zur Erörterung stehenden Angebots gegebenenfalls hat; diese Einwendungen sind bei diesen Erörterungen zur Prüfung vorzulegen.

(3) Vor dem Abschluss einer endgültigen Vereinbarung mit der Gläubigervertretung über die Bedingungen des Regelungsangebotes wird der Schuldner dem Treuhänder die Bedingungen dieses Regelungsangebotes schriftlich mitteilen. Binnen zehn Tagen nach Erhalt dieser Mitteilung kann der Treuhänder dem Schieds- und Vermittlungsausschuss Einwendungen gegen die Bedingungen des Regelungsangebotes in Bezug auf alle Fragen vorlegen, bei denen er nach den Bedingungen des bestehenden Vertrages nach seinem Ermessen feststellt, dass er gegenüber Inhabern dieser Schuldverschreibungen eine Verantwortung hat. Der Schieds- und Vermittlungsausschuss wird der Gläubigervertretung und dem Schuldner die Einleitung des Verfahrens durch Zustellung mitteilen. Die Gläubigervertretung und der Schuldner können binnen 20 Tagen nach Zustellung dieser Mitteilung ebenfalls an dem Verfahren als Parteien teilnehmen. Die Zuständigkeit des Schieds- und Vermittlungsausschusses für ein solches Verfahren wird dadurch nicht berührt, dass die Gläubigervertretung oder der Schuldner sich auf das Verfahren nicht einlässt. Erfolgt innerhalb der oben bezeichneten Frist von zehn Tagen keine Anrufung der Schiedsinstanz, so kann der Schuldner die vorgeschlagene Vereinbarung mit der Gläubigervertretung abschliessen.

(4) Eine Entscheidung des Schieds- und Vermittlungsausschusses in einem Verfahren gemäss Absatz 3 dieses Artikels ist für die Gläubigervertretung und den Schuldner in gleichem Umfange bindend wie im zweiten Absatz der Ziffer 1 des Artikels IX der Anlage II dieses Abkommens vorgesehen. Nimmt ein Treuhänder gemäss Absatz 1 oder 3 dieses Artikels an einem Verfahren als Partei teil, so hat er in diesem Verfahren die gleichen Rechte wie jede andere Partei dieses Verfahrens.

## ARTIKEL 31

### *Gemischte Kommission nach Anlage IV*

(1) Die Bestimmungen über die Zusammensetzung und den Aufbau der in Artikel 16 der Anlage IV dieses Abkommens vorgesehenen Gemischten Kommission sowie die Bestimmungen über die Ausübung ihrer Gerichtsbarkeit sind in der Satzung enthalten, die diesem Abkommen als Anlage X beigefügt ist.

(2) Die Gemischte Kommission ist zuständig für die Entscheidung

- (a) von Meinungsverschiedenheiten zwischen Gläubigern und Schuldnern über die Auslegung der Anlage IV dieses Abkommens, die ihr vorgelegt werden entweder durch den Gläubiger und den Schuldner gemeinsam oder durch einen Gläubiger oder einen Schuldner, dessen Regierung erklärt, dass die zu entscheidende Frage nach ihrer Auffassung für die Auslegung der genannten Anlage von allgemeiner Bedeutung sei;
- (b) von Fällen, die Gegenstand eines Verfahrens vor einem gemäss Artikel 17 der Anlage IV dieses Abkommens errichteten Schiedsgericht sind und die der Gemischten Kommission gemäss Artikel 16 der genannten Anlage von einer Partei dieses Abkommens oder von dem

Schiedsgericht selbst unter Berufung darauf vorgelegt werden, dass es sich um einen Fall von grundsätzlicher Bedeutung für die Auslegung der Anlage IV handele; in Fällen jedoch, in denen das Schiedsgericht gemäss Artikel 11 der Anlage IV dieses Abkommens angerufen ist, darf der Gemischten Kommission nur diejenige Frage zur Entscheidung vorgelegt werden, die für die Auslegung der genannten Anlage grundsätzliche Bedeutung hat.

(3) Jede Partei dieses Abkommens, die an dem Gegenstand eines Verfahrens vor der Gemischten Kommission interessiert ist, ist berechtigt, an dem Verfahren als Partei teilzunehmen.

(4) Die Entscheidungsbefugnis der Gemischten Kommission wird nicht dadurch berührt, dass eine an der Streitigkeit beteiligte Partei sich auf das vor der Gemischten Kommission anhängige Verfahren nicht einlässt.

(5) Die Gemischte Kommission hat das Recht, Fragen, die sich auf ihre Zuständigkeit beziehen, nach Massgabe der vorstehenden Bestimmungen dieses Artikels selbst zu entscheiden.

(6) Die Entscheidung der Gemischten Kommission ist vorbehaltlich der Bestimmungen des Absatzes 7 dieses Artikels endgültig und bindend

(a) für die Parteien des bei ihr anhängigen Verfahrens;

(b) für jede Partei einer Streitigkeit, die gemäss Absatz 2 Buchst. a dieses Artikels der Gemischten Kommission vorgelegt worden ist;

(c) für eine Partei dieses Abkommens, die gemäss Absatz 2 Buchst. b dieses Artikels einen Fall oder eine Frage zur Entscheidung vorlegt;

(d) für das Schiedsgericht, das die Frage selbst vorgelegt hat oder in dessen Verfahren die Vorlegung erfolgt ist, in den Fällen von Absatz 2 Buchst. b dieses Artikels;

(e) hinsichtlich einer Regelungsbedingung für eine Schuld, wenn diese Regelungsbedingung Gegenstand des Verfahrens war.

(7) Jede Partei dieses Abkommens ist berechtigt, gegen eine Entscheidung der Gemischten Kommission binnen 30 Tagen, nachdem sie erlassen ist, den Schiedsgerichtshof anzurufen unter Berufung darauf, dass die Entscheidung eine Frage von allgemeiner oder grundsätzlicher Bedeutung betreffe. Die Anrufung kann nur wegen solcher aus der Entscheidung sich ergebender Fragen erfolgen, bezüglich derer die anrufende Partei geltend macht, dass sie allgemeine oder grundsätzliche Bedeutung hätten. Hat der Schiedsgerichtshof über die betreffende Frage entschieden, so hat die Gemischte Kommission in dem Verfahren, das zu der Anrufung geführt hat, alle Massnahmen zu treffen, die erforderlich sind, um der Entscheidung des Schiedsgerichtshofes Geltung zu verschaffen.

## ARTIKEL 32

### *Schiedsgericht für Streitigkeiten aus Anlage IV*

(1) Haben sich ein Gläubiger und ein Schuldner gemäss Artikel 17 Absatz 5 der Anlage IV dieses Abkommens darauf geeinigt, eine Streitigkeit einem Schiedsgericht vorzulegen, so hat jeder von ihnen binnen 30 Tagen, gerechnet vom Tage der Einigung, einen Schiedsrichter zu ernennen. Sind mehrere Gläubiger oder Schuldner beteiligt, so wird der Schiedsrichter von den Gläubigern oder den Schuldnern gemeinsam ernannt. Hat eine Partei ihren Schiedsrichter nicht innerhalb der genannten Frist ernannt, so ist die andere Partei der Streitigkeit berechtigt, die Ernennung des Schiedsrichters bei der Internationalen Handelskammer zu beantragen. Die beiden Schiedsrichter wählen binnen 30 Tagen, gerechnet vom Tage der Ernennung, des zuletzt ernannten Schiedsrichters, einen dritten Schiedsrichter als

Obmann. Wird der Obmann nicht innerhalb dieser Frist gewählt, so kann jede der beiden Parteien die Ernennung bei der Internationalen Handelskammer beantragen.

(2)—(a) Ein Gläubiger, der ein Schiedsgericht gemäss Artikel 11 Absatz 2 der Anlage IV dieses Abkommens anruft, hat binnen 30 Tagen, nachdem ihm die Entscheidung des deutschen Gerichts zugestellt worden ist,

- (i) dem deutschen Gericht, das die Entscheidung erlassen hat, die Anrufung mitzuteilen;
- (ii) dem Schuldner den Namen des Schiedsrichters mitzuteilen, den er für das Schiedsgericht ernannt hat.

(b) Mit dem Eingang der in Unterabsatz a (i) dieses Absatzes vorgesehenen Mitteilung ist das Verfahren für alle deutschen Gerichtsinstanzen mit der Wirkung beendet, dass aus der Entscheidung, soweit sie sich auf die Schuld bezieht, die Gegenstand der Berufung ist, keine Rechte hergeleitet werden können.

(c) Binnen 30 Tagen, gerechnet vom Tage des Erhalts der in Unterabsatz a (ii) dieses Absatzes vorgesehenen Mitteilung, hat der Schuldner dem Gläubiger den Namen des Schiedsrichters mitzuteilen, den er für das Schiedsgericht ernannt hat. Macht der Schuldner diese Mitteilung nicht innerhalb der vorgeschriebenen Frist, so ist der Gläubiger berechtigt, die Ernennung des Schiedsrichters bei der Internationalen Handelskammer zu beantragen. Entsprechend dem in Absatz 1 dieses Artikels vorgesehenen Verfahren ist ein dritter Schiedsrichter als Obmann zu wählen.

(d) Für ein gemäss den Bestimmungen des Artikels 11 Absatz 2 der Anlage IV dieses Abkommens angerufenes Schiedsgericht, bei dem das Verfahren anhängig ist, gilt folgendes: Das Schiedsgericht

- (i) tagt, sofern die Parteien des Verfahrens nichts anderes vereinbaren, innerhalb der Bundesrepublik Deutschland;
- (ii) hat die Grundsätze anzuwenden, die sich aus Artikel 11 Absatz 1 der Anlage IV dieses Abkommens ergeben;
- (iii) verhandelt die Streitsache in vollem Umfang von neuem.

(e) Wird im Laufe eines Verfahrens, das vor einem Schiedsgericht auf Grund einer Anrufung gemäss den Bestimmungen des Artikels 11 Absatz 2 der Anlage IV dieses Abkommens anhängig ist, der Gemischten Kommission eine Frage gemäss Artikel 31 Absatz 2 Buchst. b dieses Abkommens vorgelegt, so setzt das Schiedsgericht unverzüglich das Verfahren aus, bis eine rechtskräftige Entscheidung der Gemischten Kommission über die Frage ergangen ist. Nachdem eine solche Entscheidung ergangen ist, setzt das Schiedsgericht sein Verfahren fort und trifft die erforderlichen Massnahmen, um der Entscheidung Geltung zu verschaffen.

(3) Hat ein Schiedsgericht über die Auslegung der Anlage IV dieses Abkommens zu entscheiden, so ist es an die einschlägigen Entscheidungen der Gemischten Kommission gebunden.

(4) Stirbt ein Mitglied des Schiedsgerichts oder fällt ein Mitglied wegen Erkrankung, Niederlegung des Amtes oder Nichtausübung seiner Amtspflichten aus, so wird die Stelle binnen 30 Tagen, nachdem sie frei geworden ist, in gleicher Weise wie bei der ursprünglichen Ernennung neu besetzt.

(5) Das Schiedsgericht kann darüber befinden, wie die Kosten des Verfahrens einschliesslich der Anwaltsgebühren zu tragen sind; in einem Anrufungsverfahren gemäss Absatz 2 dieses Artikels kann es ausserdem darüber befinden, welche Partei des Verfahrens die Kosten des Verfahrens vor dem deutschen Gericht zu tragen hat oder wie diese Kosten unter den Parteien zu verteilen sind. Trifft das Schiedsgericht keine Entscheidung über die Kosten, so trägt jede Partei des Verfahrens ihre eigenen Kosten;

die Kosten des Verfahrens vor dem Schiedsgericht und gegebenenfalls die Kosten des Verfahrens vor dem deutschen Gericht trägt in diesem Falle die Gläubiger- und die Schuldnerseite je zur Hälfte.

(6) Ist ein Verfahren vor dem Schiedsgericht anhängig, so kann der Antrag auf Entscheidung durch das Schiedsgericht nur mit Zustimmung aller beteiligten Parteien zurückgenommen werden.

(7) Nach Massgabe der Bestimmungen dieses Artikels und des Artikels 17 der Anlage IV dieses Abkommens gibt sich das Schiedsgericht seine eigene Verfahrensordnung. Ist eine solche Verfahrensordnung nicht erlassen oder regelt sie das Verfahren nicht erschöpfend, so ist insoweit die Schiedsgerichtsordnung der Internationalen Handelskammer anzuwenden.

(8) Die Entscheidung des Schiedsgerichts ist endgültig und für die beteiligten Parteien bindend.

### ARTIKEL 33

#### *Streitigkeiten im Zusammenhang mit Entflechtungsverfahren*

Der Schiedsgerichtshof oder eine andere gemäss diesem Abkommen oder seinen Anlagen errichtete Schiedsinstanz ist nicht zuständig für Angelegenheiten, über die ausdrücklich Verfügung getroffen ist, sei es durch einen Plan, der von der Alliierten Hohen Kommission, den von ihr zur Bearbeitung derartiger Angelegenheiten bestimmten nachgeordneten Dienststellen oder von einer diese Befugnisse der Alliierten Hohen Kommission später übernehmenden Stelle genehmigt ist, sei es durch eine Anordnung oder Verordnung, die von den genannten Stellen auf Grund der Gesetze der Alliierten Hohen Kommission Nr. 27 (Umgestaltung des deutschen Kohlenbergbaues und der deutschen Eisen- und Stahlindustrie) oder Nr. 35 (Aufspaltung des Vermögens der I.G. Farbenindustrie A.G.) erlassen ist. Bei jeder derartigen Verfügung haben der Gläubiger und der Schuldner, die alliierten Behörden und der Prüfungsausschuss die Bestimmungen dieses Abkommens und seiner Anlagen anzuwenden. Ergibt sich in einer Angelegenheit eine Streitigkeit über eine Frage der Auslegung oder Anwendung dieses Abkommens oder seiner Anlagen, so ist diese Streitigkeit vor Genehmigung eines Planes oder vor dem Erlass einer Anordnung oder Verordnung, durch die über die Angelegenheit verfügt wird, dem Schiedsgerichtshof oder einer anderen gemäss diesem Abkommen und seinen Anlagen zuständigen Schiedsinstanz zur Entscheidung vorzulegen. Die vorstehenden Bestimmungen dieses Artikels berühren nicht die Zuständigkeit des Schiedsgerichtshofes oder einer anderen gemäss diesem Abkommen oder seinen Anlagen gebildeten Schiedsinstanz für Angelegenheiten, über die nicht ausdrücklich in der oben erwähnten Weise durch einen Plan, eine Anordnung oder Verordnung verfügt ist, oder für Angelegenheiten, die auf Umständen beruhen, die nach dem Inkrafttreten eines derartigen Planes oder einer derartigen Anordnung oder Verordnung eintreten.

### ARTIKEL 34

#### *Konsultation*

Im Interesse einer beständigen und wirksamen Durchführung dieses Abkommens und seiner Anlagen zur Zufriedenheit aller Beteiligten wird, unbeschadet der von der Bundesrepublik Deutschland übernommenen Verpflichtungen, folgendes vorgesehen:

(a) Die hauptsächlich beteiligten Parteien dieses Abkommens werden in Beratungen eintreten, wenn die Regierung der Bundesrepublik Deutschland oder die Regierung eines Gläubigerstaates, auf den ein

wesentlicher Anteil an den durch dieses Abkommen erfassten Schulden entfällt, darum ersucht. Alle Parteien dieses Abkommens sind berechtigt, an den Beratungen teilzunehmen; im Falle ihrer Teilnahme können sie Vertreter der in Betracht kommenden Gläubiger oder Schuldner ihres Staates hinzuziehen.

- (b) Befassen sich die Beratungen mit einer Lage, in der sich die Bundesrepublik Deutschland nach ihrer Auffassung Schwierigkeiten bei der Erfüllung ihrer Auslandsverbindlichkeiten gegenüber sieht, so ist allen massgeblichen wirtschafts-, finanz- und währungspolitischen Gesichtspunkten Beachtung zu schenken, die auf die Transferfähigkeit der Bundesrepublik Deutschland, wie sie durch innere und äussere Umstände beeinflusst wird, und auf die beständige Erfüllung der Verpflichtungen der Bundesrepublik nach diesem Abkommen und seinen Anlagen sowie nach den Abkommen über die Nachkriegs-Wirtschaftshilfe Bezug haben. Die Grundsätze, von denen sich die Konferenz über Deutsche Auslandsschulden leiten liess, die Ziele, die sie verfolgte, und die Zusage der Regierung der Bundesrepublik Deutschland, alles in ihren Kräften stehende zu tun, um die Erfüllung dieser Verpflichtungen zu sichern, sind gebührend zu berücksichtigen. Auf Beschluss der an den Beratungen hauptsächlich beteiligten Parteien dieses Abkommens ist der Rat geeigneter internationaler Organisationen oder anderer unabhängiger Sachverständiger einzuholen. Ein entsprechendes Ersuchen kann von der Bundesrepublik Deutschland oder einer anderen hauptsächlich beteiligten Partei dieses Abkommens gestellt werden.

## ARTIKEL 35

### *Inkrafttreten*

(1) Jede Regierung, die dieses Abkommen unterzeichnet hat, hinterlegt, nachdem sie gemäss ihren verfassungsrechtlichen Erfordernissen das Abkommen ratifiziert oder genehmigt hat, bei der Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland eine Ratifikationsurkunde oder eine Notifikation darüber, dass das Abkommen genehmigt worden ist.

(2) Dieses Abkommen tritt in Kraft, sobald die Regierungen der Bundesrepublik Deutschland, der Französischen Republik, des Vereinigten Königreichs von Grossbritannien und Nordirland sowie der Vereinigten Staaten von Amerika die nach Absatz 1 dieses Artikels erforderliche Ratifikationsurkunde oder Notifikation bei der Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland hinterlegt haben. Das Abkommen tritt mit Wirkung gegenüber allen Unterzeichnerregierungen in Kraft, die bis zu diesem Zeitpunkt die erforderliche Ratifikationsurkunde oder Notifikation hinterlegt haben. Die Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland wird allen Unterzeichnerregierungen den Tag des Inkrafttretens dieses Abkommens und die Regierungen, für die es in Kraft getreten ist, mitteilen.

(3) Für jede Unterzeichnerregierung, die nach dem Inkrafttreten gemäss Absatz 2 dieses Artikels die erforderliche Ratifikationsurkunde oder Notifikation hinterlegt, tritt dieses Abkommen mit dem Tage der Hinterlegung ihrer Ratifikationsurkunde oder Notifikation in Kraft. Die Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland wird den übrigen Unterzeichnerregierungen und den diesem Abkommen gemäss Artikel 36 beigetretenen Regierungen diese Hinterlegung und den Tag, an dem sie erfolgt ist, mitteilen.

ARTIKEL 36

Beitritt

(1) Jede Regierung, die von den Regierungen der Französischen Republik, des Vereinigten Königreichs von Grossbritannien und Nordirland und der Vereinigten Staaten von Amerika oder von einer dieser Regierungen und von der Regierung der Bundesrepublik Deutschland zur Unterzeichnung dieses Abkommens eingeladen worden ist, kann nach Massgabe der Einladung das Abkommen unterzeichnen oder ihm beitreten. Jede andere Regierung, die nach dem Inkrafttreten dieses Abkommens diplomatische Beziehungen mit der Bundesrepublik Deutschland aufnimmt, kann diesem Abkommen beitreten. Dies geschieht durch Hinterlegung einer Beitrittsurkunde bei der Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland, die diese Hinterlegung und den Tag, an dem sie erfolgt ist, den anderen Unterzeichnerregierungen und denjenigen Regierungen mitteilt, die bereits beigetreten sind.

(2) Dieses Abkommen tritt für jede beitretende Regierung mit der Hinterlegung ihrer Beitrittsurkunde, jedoch nicht vor dem Inkrafttreten gemäss Artikel 35 dieses Abkommens, in Kraft.

ARTIKEL 37

*Ausdehnung des Abkommens auf bestimmte Gebietsteile*

(1) Jede Regierung kann bei der Unterzeichnung, bei Gelegenheit ihres Beitritts oder jederzeit später durch Notifikation gegenüber der Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland erklären, dass dieses Abkommen von dem in der Notifikation angegebenen Zeitpunkt ab sich auf alle oder bestimmte Gebiete erstreckt, deren internationale Beziehungen sie wahrnimmt.

(2) Die Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland wird den Unterzeichnerregierungen und den Regierungen, die beigetreten sind, die ihr gemäss diesem Artikel zugegangenen Notifikationen mitteilen.

ARTIKEL 38

*Vorbehalte und Einschränkungen*

(1) Jede Regierung, die eine Ratifikationsurkunde, eine Notifikation der Genehmigung oder eine Urkunde des Beitritts zu diesem Abkommen mit einem Vorbehalt oder einer Einschränkung oder von einer Einladung abweichend hinterlegt, gilt erst dann als Partei dieses Abkommens, wenn der Vorbehalt, die Einschränkung oder die Abweichung zurückgezogen oder von allen Parteien dieses Abkommens angenommen worden ist.

(2) Die mit einem Vorbehalt oder einer Einschränkung abgegebene Notifikation gemäss Artikel 37 wird erst dann wirksam, wenn die Einschränkung oder der Vorbehalt zurückgezogen oder von allen Parteien dieses Abkommens angenommen worden ist.

[ANMERKUNG.—Die Überschriften zu den Artikeln des Abkommens haben für den Inhalt des Abkommens keine Bedeutung.]



In witness whereof the undersigned, having been duly authorised thereto by their respective Governments, have signed the present Agreement, to which are attached Annexes I to X inclusive.

Done at London this twenty-seventh day of February, nineteen hundred and fifty-three, in three original texts, in the English, French and German languages respectively, all three texts being equally authoritative, which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland which shall transmit certified copies thereof to each signatory and acceding Government.

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En foi de quoi les soussignés, dûment habilités par leurs Gouvernements respectifs, ont signé le présent Accord, auquel sont jointes les Annexes I à X.

Fait à Londres le vingt-sept février mil neuf cent cinquante-trois, en trois textes originaux respectivement en Français, Anglais et Allemand, les trois textes faisant également foi, qui seront déposés dans les archives du Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, qui en fera parvenir des copies certifiées conformes à chacun des Gouvernements signataires et accédants.

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ZU URKUND DESSEN haben die unterzeichneten, von ihren Regierungen gehörig bevollmächtigten Vertreter dieses Abkommen, dem die Anlagen I bis X beigefügt sind, unterschrieben.

Geschehen zu London am siebenundzwanzigsten Tage des Monats Februar des Jahres neunzehnhundertdreißig, in drei Originaltexten in deutscher, englischer und französischer Sprache, wobei alle drei Texte gleichermassen authentisch sind; die Texte sollen in den Archiven der Regierung des Vereinigten Königreichs von Grossbritannien und Nordirland hinterlegt werden, die jeder unterzeichnenden oder beitretenden Regierung beglaubigte Abschriften der Texte zusenden wird.

## ARTICLE 36

### *Accession*

(1) Any Government which has been invited by the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America, or by any of them, and by the Government of the Federal Republic of Germany to sign the present Agreement may either sign or accede thereto in accordance with the terms of its invitation. Any other Government which may, after the entry into force of the present Agreement, establish diplomatic relations with the Federal Republic of Germany, may accede thereto. Accession shall be accomplished by the deposit of an instrument of accession with the Government of the United Kingdom of Great Britain and Northern Ireland, which shall notify the other signatory and acceding Governments of such deposit and the date thereof.

(2) The present Agreement shall come into force for any acceding Government on the deposit of its instrument of accession, but not before it comes into force in accordance with Article 35.

## ARTICLE 37

### *Extension of Agreement to certain Territories*

(1) Any Government may, at the time of its signature or accession or at any time thereafter, declare by notification given to the Government of the United Kingdom of Great Britain and Northern Ireland that the present Agreement shall, as from the date specified in such notification, extend to all or any of the territories for whose international relations it is responsible.

(2) The Government of the United Kingdom of Great Britain and Northern Ireland shall inform all signatory and acceding Governments of any notification received by it under this Article.

## ARTICLE 38

### *Reservations and Qualifications*

(1) Any Government which deposits an instrument of ratification or a notification of approval or an instrument of accession to the present Agreement other than in accordance with the terms of its invitation or subject to any other reservation or qualification shall not be deemed to be a Party to the Agreement until such reservation or qualification has been withdrawn or has been accepted by all the Parties thereto.

(2) Any notification given under Article 37 subject to a reservation or qualification shall not take effect until such qualification or reservation has been withdrawn or has been accepted by all the Parties to the present Agreement.

[Note.—*The headings given to the Articles of the Agreement are for reference only and are not intended in any way to govern the construction of the Agreement.*]

For Belgium :  
Pour la Belgique :  
Für Belgien :

OBERT DE THIEUSIES.

For Canada :  
Pour le Canada :  
Für Kanada :

N. A. ROBERTSON.

For Ceylon :  
Pour Ceylan :  
Für Ceylon :

V. COOMARASWAMY.

For Denmark :  
Pour le Danemark :  
Für Dänemark :

E. REVENTLOW.  
ANTHON VESTBIRK.

For the French Republic:  
Pour la République Française:  
Für die Französische Republik:

R. MASSIGLI.

For Greece:  
Pour la Grèce:  
Für Griechenland:

LEON V. MELAS.

For Iran:  
Pour l'Iran:  
Für den Iran:

For Ireland:  
Pour l'Irlande:  
Für Irland:

F. H. BOLAND.

**For Italy:**  
**Pour l'Italie:**  
**Für Italien:**

**For the Principality of Liechtenstein.**  
**Pour la Principauté du Liechtenstein:**  
**Für das Fürstentum Liechtenstein:**

**W. STUCKI.**

**For Luxembourg:**  
**Pour Luxembourg:**  
**Für Luxemburg:**

**A. J. CLASEN.**

**For Norway:**  
**Pour la Norvège:**  
**Für Norwegen:**

**P. PREBENSEN.**

For Pakistan :  
Pour le Pakistan :  
Für Pakistan :

M. A. H. ISPAHANI.

For Spain :  
Pour l'Espagne :  
Für Spanien :

PRIMO DE RIVERA.

For Sweden :  
Pour la Suède :  
Für Schweden :

GUNNAR HÄGGLÖF.

For the Swiss Confederation :  
Pour la Confédération suisse :  
Für die Schweizerische Eidgenossenschaft :

W. STUCKI.

For the Union of South Africa:  
Pour l'Union d'Afrique du Sud:  
Für die Union von Südafrika:

A. L. GEYER.

For the United Kingdom of Great Britain and Northern Ireland:  
Pour le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord:  
Für das Vereinigte Königreich von Grossbritannien und Nordirland:

GEORGE RENDEL.

For the United States of America:  
Pour les Etats-Unis d'Amérique:  
Für die Vereinigten Staaten von Amerika:

WARREN L. PIERSON.

For the Federative People's Republic of Yugoslavia:  
Pour la République Fédérative Populaire de Yougoslavie:  
Für die Föderative Volksrepublik Jugoslawien:

JAKŠA PETRIĆ.

## ANNEX I

[NOTE: The text reproduced hereunder is the text of Appendix 3 to the Report of the Conference on German External Debts with such changes as were required to achieve uniformity in the three languages. Supplementary understandings reached by the parties with respect to this Annex after the close of the Conference are attached hereto as Sub-Annexes A to E.]

**Agreed Recommendations for the Settlement of Reich debts and debts of other public authorities.**

*A.—Debts of the Reich*

The Government of the Federal Republic of Germany (hereafter referred to as the Federal Government) will undertake to offer to the Bondholders to pay and transfer the following amounts:—

1. *The 7 per cent. External (Dawes) Loan 1924*

- (a) As on the first coupon date following 31st March, 1953, interest at 5½ per cent. per annum on the American Issue and 5 per cent. per annum on the other Issues.
- (b) As on the first coupon date following 31st March, 1958, a sinking fund of 3 per cent. per annum on the American Issue and 2 per cent. per annum on the other Issues shall be added to the above interest payments and constitute with them a cumulative annuity.
- (c) The maturity date shall be extended to the year 1969.
- (d) Arrears of interest outstanding shall be recalculated at 5 per cent. simple interest, and in respect of the resulting total the Federal Government will issue 20-year Bonds carrying 3 per cent. per annum interest and after 5 years 2 per cent. sinking fund. On Bonds for so much as represents arrears due to 31st December, 1944, payment will be made as from 15th April, 1953: Bonds for the balance will not be issued until the unification of Germany when payment on these Bonds will begin.
- (e) In all respects other than those indicated above, the terms of the original Loan contracts shall be maintained.
- (f) All expenses incidental to carrying out the above modifications of the original contracts shall be borne by the Government of the Federal Republic.

2. *The 5½ per cent. International (Young) Loan 1930*

- (a) As on the first coupon date following 31st March, 1953, interest at 5 per cent. per annum on the American Issue and 4½ per cent. per annum on the other Issues.
- (b) As on the coupon date following 31st March, 1958, a sinking fund of 1 per cent. per annum shall be added to the above interest payments and constitute with them a cumulative annuity.
- (c) The maturity date shall be extended to the year 1980.
- (d) Arrears of interest outstanding shall be recalculated at 4½ per cent. simple interest and in respect of the resulting total the Federal Government will issue 20-year Bonds carrying 3 per cent. per annum interest and after 5 years 1 per cent. sinking fund. On Bonds for so much as represents arrears due to 31st December, 1944, payment will be made as from 15th April, 1953.<sup>(1)</sup> Bonds for the balance will not be issued

<sup>(1)</sup> It has now been agreed that the second sentence of paragraph 2 (d) shall read as follows:—

“On bonds for so much as represents arrears due to 31st December, 1944, payment of a first coupon representing six months' interest will be made on 1st June, 1953.”



until the unification of Germany, when payment on these Bonds will begin.

- (e) The amounts due in respect of the various issues of the 5½ per cent. International Loan 1930 are payable only in the currency of the country in which the issue was made. In view of the present economic and financial position in Germany, it is agreed that the basis for calculating the amount of currency so payable shall be the amount in U.S. Dollars to which the payment due in the currency of the country in which the issue was made would have been equivalent at the rates of exchange ruling when the Loan was issued. The nominal amount in U.S. Dollars so arrived at will then be reconverted into the respective currencies at the rate of exchange current on 1st August, 1952.

Should the rates of exchange ruling any of the currencies of issue on 1st August, 1952, alter thereafter by 5 per cent. or more, the instalments due after that date, while still being made in the currency of the country of issue, shall be calculated on the basis of the least depreciated currency (in relation to the rate of exchange current on 1st August, 1952) reconverted into the currency of issue at the rate of exchange current when the payment in question becomes due.

- (f) In all respects other than those indicated above, the terms of the original Loan contracts shall be maintained.
- (g) All expenses incidental to carrying out the above modifications of the original contracts shall be borne by the Government of the Federal Republic.

### 3. *The 6 per cent. External (Match) Loan 1930*

- (a) As on the first coupon date following 31st March, 1953, interest at 4 per cent. per annum.
- (b) As on the first coupon date following 31st March, 1958, a sinking fund of 1¼ per cent. shall be added to the above interest payments and constitute with them a cumulative annuity.
- (c) Arrears of interest to be recalculated at 4 per cent. simple interest but otherwise to receive the same treatment as the arrears in respect of the Young Loan.
- (d) The maturity date shall be extended to the year 1994.
- (e) As long as the service of the Match Loan is effected according to the provisions of this Settlement Plan, the payment for interest and amortisation of the Loan will be made at the office of the Skandinaviska Banken in Stockholm, Sweden, in Swedish Kronor equivalent to the amount due in U.S. dollars at the rate of exchange on the due date.
- (f) In all other respects other than collateral the Match Loan shall have the same treatment as the Young Loan.

### 4. *Konversionskasse Bonds*

The Federal Government will undertake to make the following payments in respect of Konversionskasse Bonds and Scrip:—

- (a) As on the first coupon or interest date following after 31st March, 1953, interest at the original contractual rates;
- (b) as on the first coupon date following after 31st March, 1958, a sinking fund of 2 per cent. per annum shall be added to the above interest payments and constitute with them a cumulative annuity;
- (c) the maturity dates of these bonds shall be extended by 17 years from the existing maturity dates;
- (d) two-thirds of the arrears of interest calculated at the contractual rates shall be waived. The remaining one-third shall be funded and carry the same interest and sinking fund as the original Bonds;

- (e) in all other respects the original contracts of these Bonds shall be maintained;
- (f) all expenses incidental to carrying out the above modifications of the original contracts will be borne by the Federal Government;
- (g) Reichsmark Bonds and Scrip will be converted into Deutsche Mark at the rate of 10:1.

5. Certain small liabilities of the Reichsbahn and the Reichspost in foreign currencies other than those covered by Annex IV will be the subject of negotiation between the Federal Government and the creditors.

6. *Debts in Reichsmarks of the Reich, the Reichsbahn, the Reichspost and the State of Prussia*

In response to the request of the creditors' representatives the Federal Government will undertake—

- (a) to extend at their request and in application of the principle of national treatment to foreign creditors the benefit of the advantages and compensations which have been or may ultimately be granted in connection with the monetary reform to German creditors;
- (b) to extend to foreign creditors at the time of the enactment of any future German law relative to the conversion and settlement of debts the benefit of the most favourable treatment provided by this law for German creditors;
- (c) if the law mentioned in paragraph (b) above is not promulgated before 1st January, 1954, or does not cover all categories of debts, to open before 1st April, 1954, negotiations with the foreign creditors' representatives in course of which these representatives reserve the right to ask for a special settlement of these debts.

The present undertaking applies to all Reichsmark debts of the Reich, the Reichsbahn and the Reichspost whether represented by Bonds (Treasury Bills, obligations of the Ablösungsanleihen, &c.) or not so represented;

- (d) The Federal Government further undertakes to extend the same treatment to the future service of the Reichsmark liabilities of the State of Prussia.

B.—*External Bonds issued or guaranteed by the States (Länder), Municipalities and similar public bodies within the territory of the Federal Republic of Germany*

7. The respective debtors shall pay to be transferred by the Federal Government the following amounts :—

(1) *Bonds other than those of the State of Prussia*

- (a) As on the first coupon date following after 31st March, 1953, 75 per cent. of the original contractual interest (subject to a minimum of 4 per cent. per annum and a maximum of 5½ per cent. per annum) or the rate specified in the original contract if less than 4 per cent. per annum;
- (b) interest at the same rates on two-thirds of any arrears of interest (other than interest already covered by Konversionskasse Bonds or similar agreed arrangements); these arrears shall be funded;
- (c) as on the first coupon dates following after 31st March, 1958, a sinking fund of 1 per cent. per annum, to be increased on 31st March, 1963, to 2 per cent. in the case of loans maturing in 1968 or after shall be added to the above interest payments and constitute with them a cumulative annuity;

- (d) the maturity dates of these Loans shall be extended by 20 years from the existing maturity dates;
- (e) in respects other than those indicated above, the terms of the original loan contracts shall be maintained unless otherwise agreed by the creditor in special circumstances. Where exceptional circumstances peculiar to a particular debtor are such as to satisfy the creditors' representatives that it is impracticable for that debtor to conform to the general arrangement, such adjustment as may seem necessary shall be made by agreement between the debtor and the creditors' representatives.
- (f) Bonds issued and payable outside of the territory of the Federal Republic denominated in Reichsmark shall be converted, at the rate of 10:1, into Deutsche Mark. They will carry interest at the original contractual rate. Arrears of interest shall be funded on the same basis and shall carry the same rate of interest. The bonds shall be extended for a period of 15 years after the maturity date, and will be redeemable in equal annuities, the first being due on the first coupon maturity date in 1958. Interest and redemption moneys will be transferred in the currency of the country where the bondholder has his residence.
- (g) Reference to an "original contract" or to an "original contractual interest" shall be read as reference to the contract or the relative contractual interest subsisting between creditor and debtor at the time when the borrowing was first made or the obligation was first incurred, unless a conversion (herein called an "effective conversion") was made before 9th June, 1933, or was made on or after that date on account of the insolvency or threatened insolvency of the debtor or as a result of free negotiation; provided that—
  - (i) in disputed cases the decision shall lie with a Court of Arbitration where the burden shall be on the debtor to prove that the arrangement was freely negotiated, and
  - (ii) arrangements made where the German Custodian of Enemy Property or a person appointed by a German authority in an occupied territory represented the creditors or resulting from mere acceptance by the creditor of a unilateral offer made by the debtor shall be presumed not to have been freely negotiated.

In calculating future interest and arrears of interest under the general formula, the original contractual rate shall apply. Where, however, an effective conversion has taken place the converted rate of interest shall apply; provided that in such case the converted rate shall not be subject to any reduction either as to arrears of interest or as to future interest, unless the debtor prefers calculation on the basis of the original contractual rate under the general formula.

- (h) All expenses incidental to carrying out the above modifications of the original contracts shall be borne by the debtors.
- (i) Where the remaining capital amount of the total of all bond issues in foreign currency of a particular debtor is small, the debtor may offer an earlier repayment and final settlement of the entire amount of such indebtedness and arrears of interest without regard to the limitations and provisions under (d) above relative to the prolongation of the indebtedness.
- (j) All corporate obligations guaranteed by a State, city, municipality or other governmental body shall be settled in accordance with "Agreed Recommendations for the Settlement of Medium and Long-Term

German Debts resulting from private capital transactions" (Annex II) provided that such guarantees shall continue in force in accordance with its terms.<sup>(1)</sup>

(2) *Bonds of the State of Prussia*

The Federal Government, on behalf of the several Länder which succeeded to territory and assets formerly belonging to the State of Prussia, shall make payments as follows:—

(a) As to External Sinking Fund 6½ per cent. Dollar Bonds of 15th September, 1926, due 15th September, 1951, and External Sinking Fund 6 per cent. Dollar Bonds of 15th October, 1927, due 15th October, 1952:—

- (i) The Federal Government will issue new dollar bonds bearing first coupon dated 1st April, 1953, and maturing in twenty years, in the same denominations as the outstanding bonds of the above issues bearing interest at the rate of 4 per cent., payable semi-annually on 1st April and 1st October. On 1st April, 1958, a sinking fund of 1 per cent. per annum shall be added to the above interest rate and constitute with it a cumulative annuity. The debtor may call bonds by lot at par or may purchase bonds in the open market or otherwise and may provide additional amortisation as long as the service is maintained in accordance with the Contract.
- (ii) Outstanding coupons on the old issues bearing dates from 15th March, 1933, to 31st December, 1936, will be extended for a period of twenty years, and upon such extended maturity 50 per cent. of the amount thereof shall be paid in United States dollars on the corresponding dates in 1953, 1954, 1955 and 1956.
- (iii) Coupons maturing on or after 1st January, 1937, shall receive no payment until such time as territories formerly belonging to the State of Prussia and now outside the territory of the Federal Republic shall be joined to the Federal Republic, at which time payment shall be the subject of negotiation.
- (iv) All expenses incidental to carrying out the above shall be borne by the Federal Government.

(b) As to the 4½ per cent. Swedish Crown Bonds of the Lübeck State Loan of 1923, taken over by the State of Prussia in 1938:

The outstanding bonds of this loan, for which notice of repayment was given for 1st May–1st November, 1944, will be redeemed upon presentation at the current rate of exchange, subject to a discount of 50 per cent. of the nominal amount and without payment of any arrears of interest.

(3) *Non-Bonded Indebtedness* (other than that covered by Annex IV)

The terms of paragraph 7 (1) will apply, *mutatis mutandis*, service starting from 1st January, 1953. In the settlement of Mark claims regard will be had to the relevant provisions of Annex IV to the Agreement on German External Debts.

<sup>(1)</sup> See Annex VII.

### *C.—General Provisions*

#### **8. Procedure for carrying out these proposals**

- (a) The terms of the proposals may be enfaced on existing bonds or new bonds issued in exchange for existing bonds, and new bonds or fractional scrip issued for arrears of interest, depending upon the convenience and custom prevailing in the several markets in which the bonds were originally issued. Such enfaced bonds or new bonds will conform to prevailing market practice. The debtors at their own expense will employ suitable banking institutions for the purposes of carrying out the details of the proposal. The debtors at their own expense will meet all requirements of governmental authorities and securities markets in order to ensure maximum marketability.

#### *Term of Offer*

- (b) The offer will be made in the respective countries as may be agreed with Bondholders' Councils or analogous bodies and shall remain open for acceptance by the bondholders for at least five years. The debtors shall extend the offer for a further period for a reasonable cause.

#### *Reservation of Rights*

- (c) If any debtor fails to fulfil the obligation undertaken under the present Agreement the creditors shall be entitled to revert to their original contractual rights.

#### *Paying Agents' and Trustees' Expenses*

- (d) Paying Agents' commissions and expenses and Trustees' fees and expenses for the future will be paid and transferred.

#### *Other Expenses*

- (e) The creditors' representatives reserve the right to obtain payment from the respective debtors of all expenses incurred by them in connection with the London Conference, and the making of an offer hereunder shall be deemed an acceptance by the debtor of this Clause. Nothing herein contained shall preclude any creditors' representative from making and collecting such reasonable additional charge as it may deem appropriate from the bondholders or creditors in accordance with established practice or otherwise.

#### *Validation*

- (f) The Federal Government undertakes to do all in its power in order to establish, on the basis of the German Validation Law passed by its Parliament and about to be enacted, an appropriate procedure for the validation of German foreign currency bonds, which procedure shall be effective in the several creditor countries as soon as possible but not later than on 1st February, 1953.

Payment on bonds or coupons which require validation under the German validation procedure shall not be made until such bonds or coupons shall have been validated pursuant thereto.

**9. The Bondholders' Councils concerned or analogous bodies will recommend these terms to the acceptance of their Bondholders.**

*D.—Claims arising out of awards of Mixed Claims Tribunals*

10. *Mixed Claims Bonds*

The German Delegation on External Debts, on the one hand, and the representatives of the American Awardholder Committee Concerning Mixed Claims Bonds on the other hand, have agreed as follows:—

The Federal Republic of Germany will propose to the Government of the United States of America and the Awardholders' Committee will recommend to the Government of the United States and to the individual awardholders the settlement on the following terms of the obligation of the Federal Republic of Germany to the United States on behalf of private United States nationals for whose benefit Mixed Claims Bonds were issued by Germany in 1930 and which bonds are in default;

- (1) The payment by the Federal Republic on 1st April, 1953, and on 1st April of each succeeding year during the periods described of the following amounts:—

	\$
For each of the first five years ... ..	3,000,000
For each of the next five years ... ..	3,700,000
For each of the next sixteen years ... ..	4,000,000

Payment will be made in United States currency dollars to the United States for distribution to the awardholders.

- (2) Any instalment not paid when due will bear interest at  $3\frac{1}{2}$  per cent. from due date to date of payment.
- (3) Bonds denominated in dollars and maturing in the amounts and on the dates of the payments will be issued in evidence of the obligations of the Federal Republic, and upon issuance a proportionate number of old Mixed Claims Bonds will be cancelled and returned to the Federal Republic.
- (4) The terms of the settlement will be embodied in a bilateral agreement between the Federal Republic and the United States.
- (5) Full performance of this Agreement by the Federal Republic and by any successor Government and payment of the amounts due under this Agreement shall constitute fulfilment by the Federal Republic and by any successor Government and full discharge of each of them of their respective obligations under the Agreement of 23rd June, 1930, and Bonds issued pursuant thereto in respect of awards of the Mixed Claims Commission, United States and Germany made on behalf of nationals of the United States, anything in the exchange of letters of 23rd October, 1950, and 6th March, 1951, between Chancellor Adenauer and the Allied High Commissioners for Germany or in the memorandum of December 1951 prepared by the Tripartite Commission to the contrary notwithstanding.

11. *Græco-German Arbitral Tribunal Claims*

A preliminary exchange of views has taken place between the Greek and German Delegations in regard to claims held by private persons arising out of decisions of the Mixed Græco-German Arbitral Tribunal established after the First World War. This will be followed by further discussions, the result of which, if approved, should be covered in the Intergovernmental Agreement.

## E.—Miscellaneous

The following settlements are recommended:--

### 12. *Lee Higginson Credit*

- (a) Participants to receive new two-year Notes of the Federal Government for full principal amount of their respective participations. (Two-year Notes, as original period of the credit when granted in 1930 was two years.)
- (b) No back interest.
- (c) No Gold clause.
- (d) New Notes to bear interest from effective date of agreement at rate of  $3\frac{1}{2}$  per cent. per annum payable in advance monthly.
- (e) Collateral fund to be reconstituted in form of a Deutsche Mark deposit in the Bank deutscher Länder, in the name of the German Federal Debt Administration as Trustee; such fund to be calculated to be the equivalent of the notes in Deutsche Marks at official rates of exchange, and to be built up by the Federal Republic in 24 equal monthly instalments from date of the Notes.
- (f) Participants to be entitled to receive prepayment of the whole or part of their notes, if they wish, in Deutsche Marks converted at official rate and to constitute full discharge of dollar or sterling obligation *pro tanto*; such payment to be made at participants' option as and when German laws and regulations so permit. Any such payment to be made out of the collateral fund to the extent the participants' proportionate interest in the collateral so permits, any balance to be paid in Deutsche Marks directly by the Federal Government.

### 13. *Bank for International Settlements Credits*

- (a) The Federal Government will pay to the Bank for International Settlements as from 1st January, 1953, in respect of current interest on the claims of the Bank an annual sum of 5,600,000 Swiss francs.
- (b) In consideration of the payment of this annuity the Bank has agreed to maintain its credits at their present level until 31st March, 1966. It has also agreed to postpone until that date the settlement of arrears of interest.

For the full text of this Arrangement see Sub-Annex A.

### 14. *Konversionskasse Receipts*

- (a) The Federal Government agrees to assume liability for full payment in the due currencies to the foreign creditors of the sums paid into the Konversionskasse by debtors in the Saar in respect of which the foreign creditors have not received foreign exchange payments or been otherwise satisfied.
- (b) The Federal Government agrees to assume liability for payment in the due currencies to the foreign creditors of 60 per cent. of the sums paid into the Konversionskasse by debtors in Austria, France, Belgium and Luxemburg in respect of which the foreign creditors have not received foreign exchange payments or been otherwise satisfied.
- (c) The Federal Government will negotiate with the foreign creditors' representatives before the end of December 1952 as regards the implementation of these undertakings.

15. *Liability in respect of Austrian Governmental Debts*

The creditors have been unable to arrive at a settlement on this question, which will be the subject of further negotiations at an early date.

16. *Agreement between Belgium and the Federal Republic of Germany*(<sup>1</sup>)

A draft Agreement between Belgium and the Federal Republic of Germany was reached on 4th August, 1952.

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SUB-ANNEX A TO ANNEX I

**Arrangement between the Federal Republic of Germany and the Bank for International Settlements**(<sup>2</sup>)

*The Government of the Federal Republic of Germany,*

represented by the Federal Ministers of Finance and for Economy, these latter being represented by Herr Hermann J. Abs,

and

*The Bank for International Settlements, Basle,*

represented by Monsieur Roger Auboin, General Manager and Alternate of the President,

make the following contract with regard to the present investments of the Bank for International Settlements in Germany:

1. The Government of the Federal Republic of Germany will pay to the Bank for International Settlements as from 1st January, 1953, to 31st March, 1966, an annual sum of Swiss francs 5,600,000 by quarterly payments falling due at the expiration of each quarter on 1st April, 1st July, 1st October and 2nd January.

2. These payments will satisfy all claims to current interest, including interest on arrears of interest, which the Bank for International Settlements possesses as a result of its present investments in Germany.

3. The payments will be made for account of those concerned. If and in so far as the Bank for International Settlements possesses claims to interest arising out of its present investments in Germany against persons or entities other than the Federal Republic of Germany, these claims to interest will pass to the Federal Republic of Germany at the time of the payments made under paragraph 1 above.

4. Subject to the above-mentioned provisions, the existing legal position will in no way be changed by the present provisional settlement. In particular, the rights and obligations of the Federal Republic of Germany with regard to the investments of the Bank for International Settlements in Germany will not thereby be extended.

5. In consideration of the payments provided for in paragraph 1, the Bank for International Settlements will not, prior to 1st April, 1966, demand

(<sup>1</sup>) See Sub-Annex B.

(<sup>2</sup>) The text of this Arrangement replaces the text of the draft Arrangement given in Annex A to Appendix 3 to the Conference Report.



the reimbursement of the principal of its investments in Germany or the payment of arrears of interest.

6. It is mutually recognised that this contract shall form an integral part of the London Agreement on German External Debts and the Annexes thereto and shall come into force at the same time as that Agreement.

7. This contract has been done in two original copies, of which one will be held by the Federal Ministry of Finance in Bonn and the other by the Bank for International Settlements in Basle.

*Basle, 9th January, 1953.*

ABS.

R. AUBOIN,  
*General Manager, Alternate of the  
President.*

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## SUB-ANNEX B TO ANNEX I

### Agreement between Belgium and the Federal Republic of Germany<sup>(1)</sup>

#### AGREEMENT

between Belgium and the Federal Republic of Germany on the Settlement of Belgian Claims arising out of the Annuities provided for in the German/Belgian Agreement of 13th July, 1929.

Belgium, of the one part, and the Federal Republic of Germany, of the other part, have agreed, as a result of negotiations which took place at London during the International Conference on German External Debts, to conclude the following Agreement:

#### ARTICLE 1

*RM.*

The Government of the Federal Republic of Germany recognises that a sum amounting to ... .. 107,856,835·65 was on 10th May, 1940, placed to the credit of the Belgian Government in respect of the annuities provided for in the German/Belgian Agreement of 13th July, 1929, and paid into the Konversionskasse up to 15th November, 1939.

On the other hand, the following were not paid into the Konversionskasse and are still owing to the Belgian Government:—

(a) the monthly portions of annuities due between 15th December, 1939, and 10th May, 1940, namely	10,833,333·33
(b) the monthly portions of annuities due between 10th May, 1940, and 8th May, 1945, namely	105,908,333·34
Total	<hr/> 224,598,502·32

<sup>(1)</sup> The text of this Agreement replaces the text of the draft Agreement given in Annex B to Appendix 3 to the Conference Report.

## ARTICLE 2

Being willing to compromise on the settlement of the above-mentioned debt, the Government of the Federal Republic undertakes to pay, and the Belgian Government undertakes to accept, a lump sum equal to forty (40) million Deutsche Mark, payable in fifteen (15) annual instalments falling due on 1st July of each of the years 1953 to 1967, namely:

5 annuities, from 1953 to 1957, amounting to DM. 2 million each;  
10 annuities, from 1958 to 1967, amounting to DM. 3 million each.

The Belgian Government agrees to accept the above payments in final and definitive settlement of the Belgian claims concerned up to 8th May, 1945.

## ARTICLE 3

Each of the above-mentioned annuities shall be represented by a bond of the Federal Republic, expressed in Deutsche Mark, and shall be transferred in Belgian currency at the mean official rate of the Bank deutscher Länder in operation on the day before the bond becomes due.

The bonds shall be delivered to the Belgian Government on 1st April, 1953, at the latest.

## ARTICLE 4

Any bond not paid at the date when it becomes due shall bear interest at the rate of 3 per cent. per annum for the benefit of the Belgian Government.

## ARTICLE 5

The present Agreement will be ratified. The instruments of ratification will be exchanged at Brussels.

The Agreement will enter into force upon the exchange of the instruments of ratification.

## ARTICLE 6

The present Agreement is drawn up in the French and German languages, the two texts being equally authoritative.

In witness whereof the undersigned plenipotentiaries, having been duly authorised thereto, have appended their signatures to the present Agreement.

Done at Bonn on the 23rd day of December, 1952, in two original texts in the French and German languages.

For Belgium:

F. MUULS.

For the Federal Republic of  
Germany:

ABS.

## SUB-ANNEX C TO ANNEX I

### **Exchange of Bonds of the Prussian External Loans of 1926 and 1927**

German Delegation  
for External Debts.  
243-18 Del. 38-2151/52.

To the  
Chairman of the  
Tripartite Commission on German Debts,  
29, Chesham Place,  
London, S.W. 1.

Mr. Chairman,

*London, 20th November, 1952.*

### *Exchange of Bonds of the Prussian External Loans of 1926 and 1927*

With reference to the exchange of letters between the Federal Chancellor and the Allied High Commissioners for Germany of 6th March, 1951, I confirm that the declaration of the German Delegation made at the London Debt Conference on 12th March, 1952, concerning the readiness of the Federal Republic of Germany to assume responsibility towards the creditors for the 6½ per cent. Prussian External Loan of 1926 and the 6 per cent. Prussian External Loan of 1927 has the meaning and effect that the Prussian Loan debts are to be treated as liabilities of the German Reich within the meaning of the exchange of letters of 6th March, 1951, for which the Federal Republic is responsible. With regard to this declaration of the German Delegation, the legislative body of the Federal Republic of Germany has included the following provision in the Validation Law for German External Bonds of 25th August, 1952—Bundesgesetzblatt I No. 35, page 553:—

#### “ PARAGRAPH 74

#### *Foreign Currency Bonds of the German Reich and of the former Land Prussia*

(1) For the purpose of this Law, the German Federal Republic shall be deemed to be the issuer of the foreign currency bonds issued by the former Land Prussia, as long as no other provision is made.”

Please accept, Mr. Chairman, the expression of my highest esteem,

HERMANN J. ABS.

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## SUB-ANNEX D TO ANNEX I

### **Agreement on the Conversion and Settlement of the Foreign Goldmark Bonds of German Municipalities**

The Chairman,  
Tripartite Commission for  
German External Debts,  
29 Chesham Place, S.W. 1.

*29 Chesham Place, S.W. 1,  
19th November, 1952.*

Mr. Chairman,

We have the honour to inform you that the German Delegation for Foreign Debts and the British Committee of Long-term and Medium-term

Creditors of Germany have agreed on the conversion and settlement of the foreign goldmark bonds of German Municipalities in the following terms:—

- (1) It is agreed that the conversion and settlement of the service of the Reichsmark bonds issued and payable abroad, provided in paragraph 7 (1) (f) of Appendix 3 of the Report of the Debt Conference, do not refer to the loans of Municipalities in Federal Germany expressed in goldmarks or in Reichsmarks with a gold clause.
- (2) The principle is agreed that bonds of those goldmark loans or Reichsmark loans with a gold clause of German Municipalities in Federal Germany, which have a specific foreign character, shall be converted into Deutschemarks on the basis of 1 goldmark or 1 Reichsmark with a gold clause=1 Deutschemark. The determination of the characteristics which denote a specific foreign character of such bonds shall comply with the regulations resulting from the discussions which are foreseen in the reservations contained in Article V, paragraph 3, of Appendix 4, and in Article 6 of Appendix 6, of the Report of the Debt Conference.
- (3) The liabilities of the German Municipalities in Federal Germany arising out of such goldmark bonds or Reichsmark bonds with a gold clause which have a specific foreign character, shall be settled in accordance with the recommendations of paragraph 7, section (1), (a) to (e) and (g) to (j) of Appendix 3 of the Report of the Conference referring to external bonds issued or guaranteed by the States (Länder), Municipalities and similar public bodies, within the territory of the Federal Republic of Germany.

We would ask you to approve our agreement as set forth above, and to attach the text of this letter as sub-annex to Annex No. I of the Debt Agreement.

Accept, Mr. Chairman, the assurance of our highest esteem,

HERMANN J. ABS.

O. NIEMEYER.

Head of the German Delegation  
for External Debts.

Chairman of Negotiating Committee  
"A" at the Conference on German  
External Debts.

SUB-ANNEX E TO ANNEX I

**Agreement on the Settlement of the Liabilities of the "Konversionskasse für Deutsche Auslandsschulden" resulting from Payments made by Debtors in the Saar Territory and in Austria, France, Luxembourg and Belgium**

German Delegation  
for External Debts.  
243-18 Del. 38-1934/52.

To  
Sir Otto Niemeyer,  
c/o Council of Foreign Bondholders,  
17 Moorgate,  
London, E.C. 2.

Dear Sir Otto, *London, 14th November, 1952.*

I have the honour to summarise the agreement reached in our discussions on 20th October and 14th November, 1952, as follows:—

With regard to the implementation of the obligation assumed under the terms of paragraph 14 of Appendix 3 to the Final Report of the Conference,

the Government of the Federal Republic of Germany is prepared to settle the liabilities of the Konversionskasse für Deutsche Auslandsschulden resulting from payments made by debtors in the Saar territory and in Austria, France, Luxembourg and Belgium to the extent that the creditors have neither received payments in non-German currency nor been otherwise satisfied, in the following manner:—

### I.—Bonded Debts

#### 1. *Arrears of Interest*

Redemption of the coupons to be presented will be made with respect to payments effected by debtors—

- (a) from the *Saar territory*, in full; and from *France, Luxembourg and Belgium*, at the rate of 60 per cent. of the debtors' payments; redemption to be made in the years 1953 to 1957 by paying—

coupons matured until the end of 1941, on the first coupon date following 31st March, 1953;

coupons matured in 1942, on the first coupon date following 31st March 1954;

coupons matured in 1943, on the first coupon date following 31st March, 1955;

coupons matured in 1944, on the first coupon date following 31st March, 1956;

coupons matured in 1945, on the first coupon date following 31st March, 1957;

- (b) from *Austria*, at the rate of 60 per cent. of the debtors' payment; redemption to be made in the years 1953 to 1957 by paying—

coupons matured in 1938, on the first coupon date following 31st March, 1953;

coupons matured between 1st January, 1939, and 30th June, 1940, on the first coupon date following 31st March, 1954;

coupons matured between 1st July, 1940, and 31st December, 1941, on the first coupon date following 31st March, 1955;

coupons matured between 1st January, 1942, and 30th June, 1943, on the first coupon date following 31st March, 1956;

coupons matured between 1st July, 1943, and 8th May, 1945, on the first coupon date following 31st March, 1957.

#### 2. *Amortisations*

Amortisation of the total amount to be established will be made either by acquisition of bonds or by payment in cash with respect to payments effected by debtors—

- (a) from the *Saar territory*, in full;

- (b) from *Austria, France, Luxembourg and Belgium* at the rate of 60 per cent. of the debtors' payments;

in five equal annual instalments, starting on 1st July, 1953, and thereafter on 1st July of each of the following four years.

Should the Government of the Federal Republic of Germany be unable to obtain by 1st July, 1953, an overall survey of the total amount of amortisations to be made, it may begin payments not later than three months after that date.

II.—Other Debts

Payment to be made in cash, the principles of Part I above applying *mutatis mutandis*, in five equal instalments, starting on 1st July, 1953, and thereafter on 1st July of each of the following four years.

Should the Government of the Federal Republic of Germany be unable to obtain by 1st July, 1953, an overall survey of the total amount to be paid, it may begin payments not later than six months after that date.

For the purpose of ascertaining the total amount of liabilities in question, the Government of the Federal Republic of Germany will by public notice request the creditors and the debtors to notify the Konversionskasse für Deutsche Auslandsschulden of any claims not settled and of any payments made to the Konversionskasse respectively, and to submit to the Konversionskasse any existing documents substantiating such notification. The Konversionskasse für Deutsche Auslandsschulden in Berlin will be instructed to register liabilities due for consideration.

III.—Small Amounts

The Government of the Federal Republic of Germany may at its discretion effect payments for very small amounts in respect of bonded debts or other debts within a shorter period.

I should be much obliged if you would confirm that the foregoing proposal is a correct statement of the agreement reached by us and can, therefore, form the subject of the envisaged exchange of letters.

Please accept, Sir, the expression of my highest esteem.

Yours very sincerely,  
ABS.

*Council of Foreign Bondholders,  
17 Moorgate,  
London, E.C. 2,*

*18th November, 1952.*

Dear Mr. Abs,

I have to thank you for your letter of the 14th November with regard to the settlement of the Konversionskasse Receipts referred to in paragraph 14 (c) of the Report of the Committee A.<sup>(1)</sup>

It is my understanding that the words at the top of page 2<sup>(2)</sup> should read "bis zum Ende des Jahres 1941" and that "am ersten auf den 31. März folgenden Kupontermin" means the first coupon date following the 31st March.

Subject to this, I am in agreement with the terms of your letter.

Yours sincerely,

O. E. NIEMEYER,

Chairman of Negotiating Committee A at  
the Conference on German External Debts.

Mr. Hermann J. Abs.

(1) Appendix 3 to the Conference Report (Annex I to the Agreement).

(2) Section I, 1 (a), first sub-paragraph.

## ANNEX II

[Note: The text reproduced hereunder is the text of Appendix 4 to the Report of the Conference on German External Debts with such changes as were required to achieve uniformity in the three languages. Supplementary understandings reached by the parties with respect to this Annex after the close of the Conference are attached hereto as a Sub-Annex.]

### Agreed Recommendations for the Settlement of Medium and Long-Term German Debts Resulting from Private Capital Transactions

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#### ARTICLE I

##### *Introductory*

This Agreement establishes terms and procedures which are to govern the settlement of the debts described in Article III below. The Agreement does not in itself modify the terms of the debts to which it applies. Rather, it is contemplated that new contracts will be entered into between each debtor and his creditors pursuant to the provisions of this Agreement. The new contracts shall retain the terms of the existing contracts unless modified by arrangements between creditor and debtor within the framework of this Agreement.

## ARTICLE II

*Definitions*

Wherever used in this Agreement, the following terms shall, unless the context requires otherwise, have the meanings indicated below:—

**Original contract**—the contract entered into at the time the loan was first made.

**Existing contract**—the original contract, except in the case of a contract which has been the subject of an effective conversion or conversions, in which case the existing contract is the contract resulting from the last effective conversion.

**Effective conversion**—a change made in the terms of a loan contract before 9th June, 1933, or made on or after that date on account of the insolvency or threatened insolvency of the debtor or as a result of free negotiation; provided that

- (a) in any dispute as to whether or not a change was freely negotiated it shall be presumed that any arrangement made where the German Custodian of Enemy Property represented the creditor, or which resulted from the mere acceptance by the creditor of a unilateral offer made by the debtor, was not freely negotiated;
- (b) in any disputed case the burden shall be on the debtor to prove that the conversion was an effective conversion;
- (c) in the case of Church loans, any conversion shall be considered effective.

**Creditor**—includes any creditors' representative designated pursuant to the provisions of Article VIII of this Agreement.

**Germany**—all territory within the German Reich on 1st January, 1937.

**Resident in**—having ordinary residence (mit gewöhnlichem Aufenthalt oder Sitz) in; a juridical person shall be deemed to have its ordinary residence in the Federal Republic of Germany or Berlin (West) if it is entered in the Commercial Register in that territory.

## ARTICLE III

*Debts Covered*

1. The present Agreement applies to every bonded loan and to every non-bonded loan issued or raised outside Germany, if—

- (a) the loan was made prior to 8th May, 1945; and
- (b) under the original contract the loan was to run for a period of five years or more; and
- (c) the debtor is a corporation, company, association, firm, partnership, bank, church, welfare institution, or other non-governmental institution; and
- (d) the debtor is, on 1st January, 1953, or on any later date when his creditors request an offer of settlement, resident in the German Federal Republic or in Berlin (West); and
- (e) the loan is denominated in non-German currency, or is denominated in German currency and contains a non-German currency or gold clause.



2. Notwithstanding the provisions of paragraph 1 of this Article, the present Agreement shall not be applicable to—

(i) the following categories of debts, which require separate treatment:—

- (a) debts of public utilities located in and controlled by the City of Berlin;
- (b) debts owed by a debtor to any person or persons who, directly or indirectly, own such debtor;
- (c) debts in respect of loans the original amount of which, converted at the exchange rate prevailing on 1st July, 1952, was less than U.S. \$40,000;
- (d) debts subject to the Swiss-German Agreements of 6th December, 1920, and 25th March, 1923 (the so-called Schweizer Frankengrundsschulden);

(ii) the debts of the jointly owned German-Swiss Boundary power plants on the Rhine. There are outstanding three bonded loans and two non-bonded loans which are owed by German companies to Swiss bondholders and other creditors. Owing to certain special features relating to the operation of jointly-owned power plants along the Rhine, the settlement of these debts is bound up with other issues. Considering these circumstances, the final settlement (upon which it is impossible to agree at this time) is left for direct negotiations between Switzerland and the Federal Republic of Germany. However the creditors agree that, in negotiating such a settlement, they will not ask for payment of an annual amount exceeding 5 million Swiss francs in the first five years after 1st January, 1953.

3. No debt shall be excluded solely because a new debtor becomes or has become liable for it, by operation of law or otherwise, either before or after 8th May, 1945. For example, no debt of an enterprise subject to Allied High Commission Law No. 27, "Reorganisation of the German Coal and Iron and Steel Industries," shall be excluded by virtue of the assumption of such debt by unit or other successor companies.

4. This Agreement shall not apply to individual bonds or coupons which require validation under the German Validation Law of 19th August, 1949 (Wirtschaftsgesetzbl. p. 295), and the German Validation Law for Foreign Bonds of August, 1952, until such bonds or coupons shall have been validated pursuant to the provisions of any such law and of any intergovernmental agreement which may be entered into with the country of issue respecting such law.

5. The problem of the debts of the German Central Bank for Agriculture (Deutsche Rentenbank Kreditanstalt) is complicated by various factors. As a result of the partition of Germany the assets invested in East Germany are presently uncollectable by the Bank, and to that extent the amount of debt covered by this Agreement is reduced by varying amounts as fixed by existing regulations, the percentage being different in each case and ranging from 20 per cent. to 67 per cent. of the outstanding loans. The German representatives stated that the Federal Government do not at present have the power to alter this situation, which results in particular from the relevant regulations under the currency conversion legislation. They do agree that the Federal Government shall do everything in its power to facilitate the settlement of the debts of the Bank and the payment of interest and amortisation as provided under the said Laws and Regulations.

The creditors' representatives reserve the right of the creditors to take such action as may be open to them to rectify what they consider to be a

settlement prejudicial to and discriminatory as between different classes of creditors.

It is understood that the Bank retains its liability to the creditors in respect of the indebtedness secured by assets in East Germany and will service that liability as and when those assets become available to it.

There are several other institutions in a similar position where the same principles should be applied.

6. In dealing with the Potash Loan in any plan of settlement under the provisions of this Agreement, there will need to be considered the special features of this loan.

ARTICLE IV

*Outstanding Amount of Debt*

1. The outstanding amount of any debt is the unpaid principal and all unpaid interest due up to 1st January, 1953, such interest to be computed as simple interest at the rate established in the existing contract, regardless of whether the debt has matured before that date and regardless of the effect of any default under the existing contract prior to that date.

2. An amount is unpaid within the meaning of paragraph 1 of this Article if it has not been received and accepted expressly or implicitly by the creditor. Acceptance by the creditor of funding bonds, scrip or cash from the Konversionskasse constitutes payment of any debt, or of any part of a debt, in respect of which they were accepted.

ARTICLE V

*Settlement Terms*

1. *Principal*

There shall be no reduction in the outstanding principal amount.

2. *Foreign Currency Debts with Gold Clauses*

(a) *Gold dollars and gold Swiss francs.*

In the case of debts expressed in gold dollars or gold Swiss francs, the debts shall be computed on the basis of 1 currency dollar equalling 1 gold dollar and 1 currency Swiss franc equalling 1 gold Swiss franc, and the new contracts shall be expressed in currency dollars or currency Swiss francs respectively.

(b) *Other currencies with gold clauses.*

In the case of other debts with gold clauses (excluding German currency debts with gold clauses—see paragraph 3 below) the amounts due shall be payable only in the currency of the country in which the loan was raised or the issue was made (below referred to as "the currency of issue"), the amount due being computed as the equivalent at the rate of exchange when the amount is due for payment of a sum in U.S. dollars which shall be arrived at by converting the amount of the obligation expressed in the currency of issue into U.S. dollars at the rate of exchange ruling when the loan was raised or the issue made. The amount of currency of issue so reached shall, however, not be less than if it were computed at the rate of exchange current on 1st August, 1952.

### 3. *German Currency Debts with Gold Clauses*

(a) The principle is accepted that such financial debts and mortgages, expressed in Gold Marks or in Reichsmarks with a gold clause, as had a specific foreign character shall be converted into Deutsche Mark at the rate of 1 Goldmark, or 1 Reichsmark with a gold clause, = 1 Deutsche Mark.

(b) The definition of the criteria constituting the specific foreign character of the above indebtedness shall be the subject of further negotiation<sup>(1)</sup> Both sides reserve their position as to the question in which cases and in which way the above principle can be implemented. It shall lie with the German Delegation to decide how the solution arrived at can be fitted into the framework of the German laws on currency reform and on the equalisation of war and post-war burdens.

(c) The above-mentioned negotiation between a German delegation and creditor delegates shall take place not later than 31st October, 1952.

### 4. *Arrears of Interest*

Subject to the provisions of paragraph 6 below, two-thirds of the unpaid interest to 1st January, 1953, shall be funded and one-third waived. Such funded interest together with the unpaid principal shall constitute the new principal amount.

### 5. *Future Rate of Interest*

Subject to the provisions of paragraph 6 below, interest shall run from 1st January, 1953, irrespective of the date when the new contract is entered into pursuant to this Agreement, at 75 per cent. of the rate of interest provided for in the existing contract. Such new current rate of interest, however, shall not exceed 5½ per cent. on bonded debts and 6 per cent. on non-bonded indebtedness, nor shall it be below 4 per cent., except that in cases where the interest rate provided for in the existing contract is below 4 per cent. the rate provided for in the existing contract shall be paid.

### 6. *Interest Rate in Cases where there has been an Effective Conversion*

In the case of any debt which has been the subject of an effective conversion the debtor shall elect either—

(a) to fund all unpaid interest outstanding under the existing contract to 1st January, 1953, and to pay interest from that date at the full rate provided in the existing contract, or

(b) to fund unpaid interest and to pay future interest as though the original contract were still in force and paragraphs 4 and 5 of this Article were applicable.

### 7. *Payment of Interest*

Interest for the period beginning 1st January, 1953, shall be payable at least semi-annually. Appropriate adjustment shall be made in any case where the new contract is not entered into until after 1st January, 1954, if the debtor cannot reasonably be expected to pay at once all interest due in respect of the period between 1st January, 1953, and the date the new contract is entered into.

### 8. *Amortisation Payments*

(a) Amortisation shall be paid annually from 1958 to 1962 at an annual rate of 1 per cent. of the new principal amount and thereafter until the maturity date at an equal rate of 2 per cent. of such new principal amount.

(1) See now Annex VII.

Amortisation payments for each year after 1958 shall be increased by the amount of one year's interest on all debt retired by means of the amortisation payments for previous years excluding, however, debt retired by means of payments made pursuant to sub-paragraph (d) below.

(b) Amortisation payments shall be made on the first interest payment date in any given year. If the first interest payment date in 1958 does not fall on 1st January, the first amortisation payment shall be calculated for the period from 1st January, 1957, to such interest payment date, and the same principle shall apply when the annual rate of 2 per cent. comes into operation.

(c) All such amortisation shall be applied to the reduction of the new principal amount. In the case of bond issues the amortisation payments shall be applied to the retirement of bonds through call by lot at the par or face value unless otherwise agreed between the debtor and his creditors.

(d) As long as the service is maintained in accordance with the new contract, additional amortisation may be made by the debtor in any manner, including acquisition of bonds whether in the open market or otherwise.

### 9. *Maturity*

The new contract shall establish a maturity date not less than 10 years nor more than 25 years from 1st January, 1953. The new maturity date must be agreed upon between the debtor and his creditors. The debtor should offer the earliest maturity date, within the above limits, which is practicable in view of his particular circumstances.

It is contemplated that maturities of 10 to 15 years, or in exceptional cases up to 20 years, should be accorded to industrial debtors, banks and churches; public utilities and basic industries, however, may extend their maturities to 20 years, but not in excess of 25 years in any case; and in the case of non-bonded debt the normal maturity shall be 10 years.

### 10. *Repayment of Small Amounts of Indebtedness*

Wherever the outstanding amount of a debt is very small or is small compared to the amount of the original loan, agreements may be entered into for an earlier repayment and final disposition of the entire amount of such indebtedness and arrears of interest without regard to the provisions of paragraphs 8 and 9 of this Article.

### 11. *Hardship Cases*

Wherever owing to extraordinary circumstances, including but not limited to a loss of assets in Germany outside the Federal Republic of Germany and Berlin (West), affecting the financial position of a debtor, it becomes impossible or impracticable for him to make an offer for a new contract on the terms specified in this Agreement, agreements between the debtor and his creditors making such adjustments as may be deemed necessary in the light of the particular circumstances shall not be precluded.

### 12. *Security*

Subject to other applicable provisions of law, the provisions of the existing contract for liens and collateral and any other type of security for the protection of creditors shall remain in force, but in so far as the security provided under the existing contract no longer corresponds in its nature or extent with the new principal amount of the debt or no longer corresponds with the circumstances prevailing at the time the new contract is entered into, the debtor may propose a change in the nature or extent of the security. The security proposed by the debtor shall, however, be fully adequate and must be acceptable to the creditor.

To the extent that the security has been impaired or substantially altered the debtor shall make such readjustments as are necessary to provide his creditors with at least the degree of protection originally afforded.

The creditor may demand, and his debtor shall provide, reasonable security or other protective provisions acceptable to the creditor.

### 13. *Reserves and Sinking Funds*

Because the amortisation payments are only to commence in 1958 and then at the relatively low rate of 1 per cent., and in 1963 increase to only 2 per cent., the debtor shall pursue a policy of assuring a sufficiently strong liquid financial position in order to meet his obligations at maturity. Therefore, additional provisions should be discussed between creditors and debtors which may provide for the establishment of reserves or sinking funds for the debts under which an annual amount, calculated either as a percentage of the net earnings prior to dividend payments or otherwise as may be agreed, shall be set aside.

### 14. *Provision of Foreign Exchange*

The debtor shall make the arrangements required under German law for the provision of the necessary foreign exchange to discharge all obligations under the new contract.

### 15. *Default of the Debtor*

In the event of default, in addition to any penalties for default provided in the new contract, the creditor shall be entitled, for the period of the default, to receive interest at the rate provided in the existing contract.

### 16. *Modification of Terms*

Nothing in this Agreement shall prevent any debtor from obtaining, with the consent of his creditors, terms more favourable to the debtor than those specified in this Agreement.

### 17. *Concessions for Benefit of Debtors*

The creditors consider that the concessions made by them under this Agreement should accrue to the benefit of the debtors.

## ARTICLE VI

### *Miscellaneous Provisions affecting Debts*

#### 1. *Repayment in German Currency*

Any debtor may arrange at the request of any of his creditors for repayment of a debt or part thereof in German currency.

#### 2. *Change of Creditor*

Apart from the case of bonds, the creditor may assign to some other person ordinarily resident outside the Federal Republic of Germany and Berlin (West) his claim or a substantial part thereof provided that the assignment

(a) is made to a resident in the same currency area,

(b) does not entail any modification of the conditions underlying the claim,

(c) does not result indirectly or directly in settlement of the claim.

3. *Change of Debtor*

The German Foreign Exchange Control Authorities will favourably consider applications for the taking over of an existing debt by a new German debtor, and for the replacement of existing pledged security by a new security.

ARTICLE VII

*Procedure for Negotiation of New Contracts*

1. The provisions of and the technical details relating to the new contracts to be entered into between creditors and their debtors shall be included in an offer of settlement to be made by the debtor.

2. All proposed agreements, contracts or indentures shall be subject to approval as to form and content by legal counsel for the creditors if they so desire.

3. Each debtor shall, prior to 30th June, 1953, or within six months of his taking up residence in the Federal Republic of Germany or in Berlin (West), prepare and submit to his creditor a detailed offer of settlement. The creditor may request his debtor to enter into negotiations with him regarding any aspect of the offer, and the debtor shall enter into such negotiations.

4. The term creditor, as used in paragraphs 2 and 3 of this Article, shall in the case of any bond issue mean the creditors' representative appointed pursuant to Article VIII.

5. In the case of bonded indebtedness, the terms of the settlement may be enforced on existing bonds or new bonds may be issued in exchange for existing bonds, and new bonds or fractional scrip exchangeable for bonds may be issued for arrears of interest, depending upon the convenience and prevailing custom in the respective markets in which the bonds were issued. Enforced bonds or new bonds shall conform to prevailing market practice. The debtor, at his own expense, shall employ suitable banking institutions for the purpose of carrying out the settlement and shall meet all requirements of governmental authorities and securities markets in order to ensure marketability.

ARTICLE VIII

*Creditor Representation*

The Committees and organisations whose delegates participated in the Conference on German External Debts as representatives of the various national groups of creditors affected by this Agreement (such Committees and organisations being hereinafter referred to as "Creditor Committees") shall, subject to the right of approval of their respective Governments, appoint as creditors' representatives such persons or organisations as may be required to forward and bring about settlements between particular debtors and their creditors pursuant to this Agreement, or may themselves act in such capacity. Not more than one representative or representative organisation shall be appointed in any particular case, except that, where deemed necessary by the Creditor Committees in order to protect fully the rights of the holders of different issues of bonds of a particular debtor, there may be appointed not more than one representative or representative organisation for each such issue. The German debtor is entitled to request the Creditor Committees to appoint representatives. Participation in the Debt Conference shall not bar any person from serving in any capacity in any negotiations entered into pursuant to this Agreement.

## ARTICLE IX

### *Arbitration and Mediation Committee*

#### 1. *Jurisdiction*

In order to forward the settlements between individual debtors and their creditors, an Arbitration and Mediation Committee shall be established. The duty of this Committee shall be to mediate and arbitrate between the debtor and his creditors in the event that they are not able to agree between themselves as to the terms of the offer of settlement to be made. Either party shall have the right to refer a disputed point to the Committee.

The decision of the Committee shall be binding on both parties. The debtor shall be obliged to offer to his creditors the terms set forth in such decision. The creditor shall be obliged to accept such terms<sup>(1)</sup>, or, in the case of a bond issue where the bondholders are represented pursuant to the provisions of Article VIII of this Agreement, the creditors' representative shall be obliged to recommend acceptance of the offer by the bondholders.

Where a creditors' representative has been appointed pursuant to such Article VIII, the rights of the creditors under this Article shall be exercised by such representative.

#### 2. *Composition*

The Committee shall be composed of four members appointed by the creditors and four members appointed by the debtors. The Committee may elect a further member for any particular case upon request of a majority of its members. The chairman of the Committee shall be elected from among the creditor members. The first Chairman shall be the United States member. For each member an alternate may be designated. Each member of the Committee including the Chairman shall have one vote.

#### 3. *Appointment of Members*

The members of the Committee shall be appointed as follows:—

(a) The creditor members shall be appointed by organisations designated by the respective Creditor Committees of the United States, United Kingdom, Switzerland and the Netherlands. At the request of the Creditor Committee of a country whose creditors are specially concerned in a particular case, a member appointed by the Creditor Committee in that country shall replace one of these members as his alternate.

(b) The debtor members shall be appointed by the Head of the German Delegation on External Debts.

#### 4. *Procedure*

The Committee may set up sub-committees for any particular case and may appoint temporary members to sit on such sub-committees.

The manner of submitting disputes, the times and places of hearing, the manner of giving notice of hearings, and all other matters relating to the procedure or administration of the Committee or its sub-committees shall be determined by the Committee.

(<sup>1</sup>) See Sub-Annex.

### 5. Costs

Members of the Committee and temporary members shall be reimbursed for all travel and out-of-pocket expenses incurred in connection with the performance of their duties and shall receive in addition remuneration to be established by the Committee for all time spent in connection with the performance of their duties.

All expenses and costs incurred by the Committee or its members or temporary members in a given dispute shall be borne by the particular German debtor involved. In any case, however, where the Committee or the appropriate sub-committee determines that resort to the Committee has not been made in good faith by a creditor or that the appeal is frivolous the costs and expenses shall be borne by such creditor to the extent directed by the Committee or sub-committee.

All other expenses of the Committee and its members, including compensation to the members when engaged in Committee affairs, shall be refunded by the debtors by assessment or otherwise.

## ARTICLE X

### *Expenses of Creditors, Creditor Representatives and Others*

1. The debtors affected by this Agreement shall pay all expenses incurred in connection with the Debt Conference or in the general execution of this Agreement by any Creditor Committee.

2. Expenses incurred by the creditors in connection with negotiations between a debtor and his creditors pursuant to Article VII of this Agreement shall be borne by the debtor involved. Such expenses and compensation shall be paid, in the case of non-bonded debt, to the creditors and, in the case of bonded debt, to the creditors' representatives appointed pursuant to Article VIII of this Agreement.

3. The term expenses, as used in paragraphs 1 and 2 of this Article, includes reasonable compensation for services. Any dispute as to the reasonableness of expenses payable under this Article may be referred to the Arbitration and Mediation Committee.

4. Payments provided for in this Article shall not stand in the way of or bar any creditors' representative from making and collecting additional charges from the bondholders or creditors.

## ARTICLE XI

### *Entry into Force*

No payments may be made, under the terms of any settlement offer made pursuant to this agreement, prior to the date of entry into force of the contemplated Intergovernmental Agreement on German External Debts. Nevertheless, the debtors shall proceed expeditiously to prepare and present offers of settlement to their creditors in accordance with the provisions of Article VII of this Agreement, to conduct such negotiations as may be necessary, and otherwise to take all steps to forward the preparation of the new offers contemplated hereunder.



SUB-ANNEX TO ANNEX II

Interpretation of the second paragraph of Section 1 of Article IX of Annex II

The Tripartite Commission on German Debts,  
29 Chesham Place, S.W. 1.

Gentlemen,

12th November, 1952.

Our attention has been drawn to a misunderstanding which has arisen as to the meaning of the second paragraph of Section 1 of Article IX of Appendix 4 to the Report of the Conference on German External Debts. This paragraph reads:—

“ . . . . .  
The decision of the Committee shall be binding on both parties. The debtor shall be obliged to offer to his creditors the terms set forth in such decision. The creditor shall be obliged to *accept such terms*, or, in the case of a bond issue where the bondholders are represented pursuant to the provisions of Article VIII of this Agreement, the creditors' representative shall be obliged to recommend acceptance of the offer by the bondholders.  
. . . . .”

The words in italics, “accept such terms,” have given rise to the misunderstanding. The proper interpretation would be clear if they were replaced by the words: “recognise such terms as being in accordance with the provisions of this Agreement.”

We shall be grateful if the Tripartite Commission will take note that the above-quoted second paragraph of Section 1 of Article IX of Appendix 4 properly has the sense it would have if it were expressed in this changed wording, *i.e.*, if it read:—

“The decision of the Committee shall be binding on both parties. The Debtor shall be obliged to offer to his creditors the terms set forth in such decision, and the creditor shall be obliged to *recognise such terms as being in accordance with the provisions of this Agreement*, or, in the case of a bond issue where the bondholders are represented pursuant to the provisions of Article VIII of this Agreement, the creditors' representative shall be obliged to recommend acceptance of the offer by the bondholders.”

Yours faithfully,

N. LEGGETT,

Chairman of Negotiating Committee B at  
the Conference on German External  
Debts.

HERMANN J. ABS,

Head of the German Delegation for  
External Debts.

## ANNEX III

[NOTE: The text reproduced hereunder is the text of Appendix 5 to the Report of the Conference on German External Debts with such changes as were required to achieve uniformity in the three languages. Supplementary understandings reached by the parties with respect to this Annex after the close of the Conference are attached hereto as a Sub-Annex.]

**Agreed Recommendations for the Settlement of Standstill Debts :—**

**The German Credit Agreement of 1952**

**AGREEMENT** made between a COMMITTEE representative of BANKING, COMMERCIAL and INDUSTRIAL CONCERNS in THE FEDERAL REPUBLIC of GERMANY and the WESTERN SECTORS of BERLIN (hereinafter referred to as "the German Committee" which expression shall include any institution or body succeeding to any of its functions relevant to this Agreement), the BANK DEUTSCHER LAENDER (which shall include any institution or body succeeding to any of its functions relevant to this Agreement) and such of the following Committees (hereinafter collectively referred to as "the Foreign Bankers' Committees") as become signatories hereto, namely COMMITTEES representative of BANKING INSTITUTIONS carrying on business in the UNITED STATES OF AMERICA, THE UNITED KINGDOM and SWITZERLAND respectively

**WHEREAS :—**

(1) An Agreement for the maintenance of short-term banking credits to Germany which came into force on the 17th September, 1931, was entered into by foreign banking creditors in response to the request of the Seven-Power Conference, which met in London in July 1931, that "the foreign banking creditors of Germany should take concerted measures with a view to maintaining the volume of credits they had already extended to Germany" and in reliance on the declaration by that Conference that "in order to ensure the maintenance of the financial stability of Germany, which is essential in the interests of the whole world," the Governments concerned "were ready to co-operate, so far as lies within their power, to restore confidence."

(2) Maintenance of such short-term banking credits was continued by successive annual Agreements, the latest of which (hereinafter referred to as "the 1939 Agreement") was due to expire on 31st May, 1940, but, in consequence of the outbreak of hostilities between Germany and the United Kingdom and its Allies, was terminated on 4th September, 1939, by notice given on behalf of the Committees representative of the banking creditors in the U.S.A. and England in accordance with the conditions of that Agreement.

(3) Following the termination of the 1939 Agreement certain Agreements were entered into between the American Creditors' Committee and the appropriate German parties in 1939 and 1940 for the continued maintenance (with certain restrictions and modifications) of such of the said short-term banking credits as had been granted by the foreign banking creditors in the U.S.A., the second of which Agreements expired on 31st May, 1941.

(4) Following the termination of the 1939 Agreement certain other Agreements were entered into between the Swiss Creditors' Committee and

the appropriate German parties for the continued maintenance (with certain restrictions and modifications) of such of the said short-term banking credits as had been granted by foreign banking creditors in Switzerland but all such Agreements have since expired.

(5) In accordance with the conditions of the latest of the previous Agreements applicable thereto, all indebtedness arising under the said short-term banking credits to Germany matured on the expiration of the respective Agreement with the effects stipulated therein and all such indebtedness (including indebtedness arising under certain credits which were granted in substitution for short-term credits formerly governed by one or more of the previous Agreements) then became due and payable by the respective debtors (together with interest and other charges accrued and accruing thereon) in the relative foreign currencies and is still so due and payable except to the extent that the said indebtedness has meanwhile been discharged or reduced by payment or satisfaction in either foreign or German currency. No provision has yet been made to enable the remainder of such indebtedness to be discharged in the respective currencies of the debts.

(6) Banking, commercial and industrial concerns in the Federal Republic through the German Committee have requested their foreign banking creditors to enter into a new Agreement for regulating payment of the outstanding short-term indebtedness and for establishing means for the restoration of normal conditions for financing the foreign trade of the Federal Republic and in response to such request appropriate provisions have been formulated and embodied in this Agreement and it has been agreed by the Foreign Bankers' Committees to recommend foreign banking creditors in their respective countries to adhere to this Agreement.

(7) This Agreement has been executed by the Foreign Bankers' Committees upon the terms that so long as this Agreement remains in force, there shall be promulgated and maintained such legislation and regulations by the Government of the Federal Republic or other appropriate authority<sup>(1)</sup> as may be necessary to render its provisions effective and that no legislation or regulations substantially affecting the obligations of this Agreement shall be promulgated and in particular that the legislation to be so promulgated and maintained shall ensure that

- (i) There will be no discrimination on the part of banking, commercial or industrial concerns in the Federal Republic in the making of repayment or the giving of security as between their foreign banking creditors whether adhering to this Agreement or not;
- (ii) There will be no discrimination on the part of banking, commercial or industrial concerns in the Federal Republic in the giving of security as between their creditors in the Federal Republic and their foreign banking creditors whether adhering to this Agreement or not;<sup>(1)</sup>
- (iii) Unauthorised movements of capital shall be prevented; and<sup>(1)</sup>
- (iv) <sup>(1)</sup> All banking, commercial and industrial concerns in the Federal Republic who are subject to any form of indebtedness falling within this Agreement shall adhere thereto.

NOW IT IS HEREBY AGREED as follows:—

### 1. Definitions

In this Agreement, unless the context shall otherwise require, the under-mentioned expressions shall have the following meanings, namely:—

“Short-term credits” means and includes

- (i) All acceptances, time deposits, cash advances and/or any other form of indebtedness arising from special agreements in non-German

<sup>(1)</sup> See Sub-Annex.

currency in respect of which adherence was effected by a Foreign Bank Creditor to the latest of the previous Agreements applicable thereto and which is outstanding at the date of this Agreement; but not indebtedness arising out of short-term banking credits extended to banking, commercial or industrial concerns in any country outside the territory comprised in the German State on the 31st day of December, 1937, unless some banker, banking institution or commercial or industrial firm or company ordinarily resident in the Federal Republic (as herein defined) is liable (whether originally or by way of succession or as guarantor, endorser or credit insurer) in respect of such indebtedness;

- (ii) Any further acceptances, time deposits, cash advances and/or other forms of banking credit in non-German currency outstanding at the date of this Agreement and arising out of special credit arrangements which were made pursuant to the provisions of any of the previous Agreements in substitution for any short-term credit previously subject to those Agreements or any of them or by way of investment of registered credit balances under the previous Agreements or any of them;
- (iii) All indebtedness in respect of interest which shall have accrued on indebtedness falling within the foregoing paragraphs (i) and (ii) up to and including the date of this Agreement and in respect of which the Foreign Bank Creditor shall have elected or be deemed to have elected option (i) expressed in Clause 11A hereof;
- (iv) Any further indebtedness arising out of any form of banking credit which shall have been granted by way of recommercialisation of any short-term credit as defined in the foregoing paragraphs (i) to (iii) pursuant to the provisions of Clause 5 hereof.

“German Debtor” means and includes

- (i) Any banker, banking institution or commercial or industrial firm or company ordinarily resident in the Federal Republic who is liable in respect of a short-term credit but does not include a foreign branch, subsidiary or affiliation thereof except that adherence may be effected by notification to any German commercial or industrial firm or company in respect of credits granted to its foreign branches, subsidiaries or affiliations in cases in which adherence was permitted to be made to any of the previous Agreements. Upon such adherence such credits shall be treated in all respects for the purposes of this Agreement as short-term credits granted to the German parent firm or company;
- (ii) Any successors (as herein defined) of a banker, banking institution or commercial or industrial firm or company as aforesaid;
- (iii) Any German Public Debtor as that expression is defined in the German Public Debtors' Credit Agreement of 1932.

“German Bank Debtor” means any German Debtor whose primary business is that of banking.

“German Commercial or Industrial Debtor” means any German Debtor who is not a German Bank Debtor or a German Public Debtor as hereinbefore referred to.

“Successors” means and includes

- (i) Every party ordinarily resident in the Federal Republic who is liable in respect of a short-term credit as a result of the decease, liquidation, re-organisation or bankruptcy of any German Debtor or former German Debtor.

- (ii) Any company ordinarily resident in the Federal Republic which, having derived all or a substantial part of its initial assets from a German Debtor or former German Debtor, has by operation of law or otherwise become liable in respect of a short-term credit.

“Foreign Bank Creditor” means and includes any banker or banking institution ordinarily resident in one of the countries named in the preamble to this Agreement and any other firm or corporation ordinarily resident in one of those countries to whom indebtedness under short-term credits is owing and who shall in either case have unconditionally adhered to this Agreement in accordance with Clause 22 hereof.

“Federal Republic” means and includes the territory comprised in the Federal Republic of Germany and the Western Sectors of Berlin on the date of this Agreement.<sup>(1)</sup>

“German” means appertaining to the Federal Republic as herein defined.

“Foreign” means appertaining to any country outside the territory comprised in the German State on the 31st day of December, 1937.

“Firm” includes an individual trading in his own or under a firm name.

“Insolvency” where used with reference to a German Debtor means a state in which the Debtor for want of liquid assets, not merely temporary, is unable to discharge all his debts as they mature.

“The previous Agreements” means and includes the German Credit Agreements of 1931 to 1939, the German Public Debtors’ Credit Agreements of 1932 to 1938, the German-American Standstill Agreements of 1939 and 1940, and the Agreements relating to short-term credits owing to banking creditors in Switzerland and known respectively as “Das Deutsche Kreditabkommen von 1940, 1941, 1942, 1943 und 1944.”

“Face Value” in relation to short-term credits for the time being outstanding means the total amount of such short-term credits according to the latest information available to the respective Foreign Bankers’ Committees expressed for the purposes of computation in German currency calculated at the official middle rate quoted in the Federal Republic on the first working day prior to the day on which the computation is made.

## 2. Period of Agreement<sup>(1)</sup>

(1) Unless otherwise stated, the provisions of this Agreement shall come into force on the \_\_\_\_\_ day of \_\_\_\_\_ 1952, and remain in force for a period of twelve calendar months from that date, subject to earlier determination by the Foreign Bankers’ Committees in any of the following events, namely:—

- (i) If there shall be declared in the Federal Republic a moratorium which affects any obligation of German Debtors to Foreign Bank Creditors dealt with in this Agreement, or
- (ii) If in the future international decisions or governmental action of a financial, political or economic character create a situation in which, in the opinion of a majority of the Foreign Bankers’ Committees, the carrying out of this Agreement becomes seriously endangered, or
- (iii) If the Foreign Bankers’ Committees, after the attention of the German Committee has been drawn to the matter, shall find that any of the terms contained in Recital (7) has not been complied with.

<sup>(1)</sup> See Sub-Annex.

(2) Any such determination shall be without prejudice to rights and obligations accrued under this Agreement prior to the date of such determination and to be effective must be made by notice in writing or by cable or radiogram (specifying the date upon which this Agreement is to be determined) signed on behalf of a majority of the Foreign Bankers' Committees and despatched to the Bank for International Settlements and to the German Committee, but failure so to notify the German Committee shall not nullify such termination.

(3) The declaration in the Federal Republic of a general foreign moratorium in whatever form shall *ipso facto* determine this Agreement.

### 3. Maintenance of Credits, etc.

(1) During the period of this Agreement the right of any Foreign Bank Creditor to repayment of short-term credits with respect to which he has adhered to this Agreement shall be postponed until the termination of this Agreement, except that such Foreign Bank Creditor shall be entitled to any earlier payment granted or permitted by any Clause of this Agreement. Every German Debtor by adhering hereto agrees that all short-term credits with respect to which he adheres shall be due and payable in full in the relative foreign currency on the termination of this Agreement, subject to such reductions as shall have been made prior to such termination pursuant to any of the provisions hereof.

(2) Neither the execution of this Agreement nor anything contained herein shall operate to prejudice any of the rights and obligations of a Foreign Bank Creditor and his German Debtor in respect of a short-term credit which have arisen

- (i) as a result of any act or thing done or omitted by the German Debtor for the benefit of the Foreign Bank Creditor during the period from the termination of the latest of the previous Agreements applicable to the relative short-term credit and the coming into force of this Agreement, or
- (ii) as a result of the exercise by the Foreign Bank Creditor of any rights or powers available to him during the period mentioned in the last foregoing paragraph.

By adhering to this Agreement in respect of any short-term credit the Foreign Bank Creditor shall be deemed to ratify and confirm any action taken by his German Debtor for the benefit of such Foreign Bank Creditor as specified in the foregoing paragraph (i) and such ratification shall be deemed to have had effect at the time when the relative action was taken.

(3) The ratification provided in the preceding sub-Clause shall not apply to any payments made by any German Debtor in German currency other than payments made to or for the account of the Foreign Bank Creditor with his express consent.

(4) With respect to any short-term credit or part thereof in regard to which a German Bank Debtor was required pursuant to sub-Clause (1) of Clause 7 of the 1939 Agreement (or corresponding provisions of any subsequent Agreement) to obtain from its client an *eigene Wechsel* or letter of guarantee, such Bank Debtor shall upon his adherence to this Agreement procure for the Foreign Bank Creditor a new *eigene Wechsel* or (at the option of the Foreign Bank Creditor) a new letter of guarantee dated not earlier than the date of this Agreement and shall hold the same for or forward it to the Foreign Bank Creditor as required by the said sub-Clause (or corresponding provisions). Such letter of guarantee shall contain an obligation of the client to reimburse the German Bank Debtor in the form and to the extent demanded by such Bank Debtor in the event that such Bank Debtor voluntarily repays the relative short-term credit or part thereof in German currency pursuant to Clause 10 hereof.

(5) Every German Bank Debtor or German Commercial or Industrial Debtor shall be obligated to cover at maturity any bill accepted for its account by a Foreign Bank Creditor.

(6) Any Foreign Bank Creditor to whom a short-term credit is owing in a currency other than that of his own country may, by giving notice in writing to his German Debtor at any time within the period of this Agreement, convert such credit into the currency of the country of such Foreign Bank Creditor. Such conversion shall thereupon be effected in the books of the Foreign Bank Creditor and the German Debtor, and the amount of the short-term credit expressed in the new currency shall be calculated by reference to the official middle rates for exchange of German currency into the original currency of the credit and such new currency respectively quoted in the Federal Republic on the date of the relative notice.

#### **4. Reduction of Indebtedness (Temporarily inoperative)**

Each Foreign Bank Creditor shall have the right to require permanent repayment, three months after the date of this Agreement and at the end of each three calendar monthly period thereafter during the period of this Agreement, by per cent. of the total amount of the short-term credits owing to such Foreign Bank Creditor by his German Debtors at the date of the coming into force of this Agreement, in respect of which adherence shall be made. Such repayment shall be made in the currency of the country of the Foreign Bank Creditor and the right to repayment of the total of the short-term credits by per cent., may be exercised by the Foreign Bank Creditor by applying such aggregate repayment right to the short-term credits owing by one or more of his German Debtors as the Foreign Bank Creditor may elect. The Foreign Bank Creditor shall be entitled to allocate his repayment rights to any particular indebtedness owing by an individual German Debtor.

(NOTE.—*Additional provisions may be required for mechanics of payment.*)

#### **5. Recommercialisation**

(1) The Bank deutscher Laender shall from time to time announce to the Foreign Bank Creditors that a certain percentage (hereinafter called the "stated percentage") of each Foreign Bank Creditor's aggregate short-term credits outstanding on the date of this Agreement may be recommercialised.

(2) Thereupon each Foreign Bank Creditor may within three months of such announcement arrange with Banks or other concerns in the Federal Republic (being or capable of becoming German Debtors as defined in this Agreement) for the opening of new credit lines (hereinafter called "substituted lines") up to the stated percentage of his aggregate short-term credits referred to in the preceding sub-Clause.

(3) Upon any such arrangement being concluded the Foreign Bank Creditor shall notify the Bank deutscher Laender that it is proposed to open the relative substituted line upon final repayment of an equal amount of specified short-term credits or parts thereof (hereinafter called "designated indebtedness") owing by a German Debtor (hereinafter called the "designated Debtor") and designated by the Foreign Bank Creditor. Except where the substituted line is with a German licensed foreign trade bank (Aussenhandelsbank) the Bank deutscher Laender shall have the right to disapprove the arrangement if it is not satisfied that the new debtor will be able to make adequate use of the substituted line.

(4) Unless the Bank deutscher Laender disapproves the arrangement for recommercialisation, pursuant to the preceding sub-Clause, the Foreign Bank Creditor shall give notice to the designated Debtor to repay the designated indebtedness and such Debtor shall, as promptly as possible, arrange through the Bank deutscher Laender for such repayment in foreign currency and upon such repayment the substituted line will be open for availment.

(5) A Foreign Bank Creditor who has received security for designated indebtedness shall notify the designated Debtor of his willingness in case of a part repayment to release, against such repayment, a proportionate part of such security except where the security is not capable of division or except where the agreement between the parties otherwise provides. Failing such notification the Foreign Bank Creditor shall not be entitled to demand repayment of such indebtedness.

(6) In so far as a Foreign Bank Creditor who has given or participated in giving a credit on joint account as defined in Clause 7 of the German Credit Agreement of 1931 is entitled (under any still subsisting arrangements governing the rights of the parties to such credit *inter se*) to demand any separate repayment on account of his participation, he shall not be permitted to demand repayment of the indebtedness owing by a German Commercial or Industrial Debtor without at the same time demanding repayment of at least a corresponding proportion of the indebtedness owing by the German Bank Debtor in the joint account provided that such German Bank Debtor has adhered to this Agreement.

(7) No syndicate as such may exercise any of the rights of a Foreign Bank Creditor under this Clause. Nothing in this sub-Clause is intended to affect such rights as any participant in a syndicate may have either through withdrawal from such syndicate or by arrangements therewith to make an individual demand for repayment of designated indebtedness under this Clause.

(8) Substituted lines shall be available only by bills drawn for financing trade between the Federal Republic and other countries and not merely for the purpose of creating foreign exchange or for the purpose of financing business which could more properly be financed by inland credits; provided that a Foreign Bank Creditor shall not be obliged to accept any bill drawn in respect of a transaction which is for the time being prohibited or disapproved by the authorities of the respective foreign creditor country or which it would not be the current practice of banks in such country to finance by an acceptance credit. If any question shall arise whether any bill complies with the foregoing provisions, such question shall be decided by agreement between the Foreign Bankers' Committee concerned and the German Committee. All such bills outstanding at any time shall be covered by the German Debtor at maturity in cash in the currency of the credit and the unavailment thus created shall be again availed of only in accordance with this sub-Clause. For the cash payment referred to herein a German Debtor may use the proceeds of a new bill; provided that—

- (i) the new bill shall have been presented to the Foreign Bank Creditor a week, if possible, and at least four business days before the due date of the maturing bill and shall have been designated for the purpose of meeting the maturing bill from the proceeds;
- (ii) the new bill complies with the requirements of this sub-Clause, and
- (iii) the Foreign Bank Creditor shall have accepted the new bill before the due date of the maturing bill.

If a new bill so offered is not so accepted by the Foreign Bank Creditor on the grounds that it does not comply with the requirements of this sub-Clause the German Debtor shall be bound to remit cash to cover the maturing bill



punctually on maturity. The German Debtor in that case may apply to the Foreign Bankers' Committee concerned through the German Committee and if such Committees agree that the new bill does comply with the requirements of this sub-Clause, then the Foreign Bank Creditor shall be bound to accept the new bill.

(9) If a Foreign Bank Creditor has failed within three months of the announcement of any stated percentage to take advantage of the whole or part of his rights to arrange recommercialisation, such rights shall lapse (without however affecting such Foreign Bank Creditor's right to other recommercialisation pursuant to subsequent announcements of stated percentages).

(10) The Bank deutscher Laender will use its best efforts to arrange that a certain amount of eligible business shall be available for recommercialisation.

(11) A Foreign Bank Creditor who has opened a substituted line and the Debtor to whom such line is granted shall be subject to all the provisions of this Agreement in respect of such substituted line and forms of adherence in respect thereof shall be exchanged upon the Foreign Bank Creditor receiving repayment of the relative designated indebtedness.

(12) If in the opinion of the Bank deutscher Laender a substituted line is not being adequately availed of in the interests of the German economy, the Bank deutscher Laender may require the Foreign Bank Creditor to place so much of such line as is not then availed of at the disposition of some other bank, banking institution or commercial or industrial firm or company in the Federal Republic (being or capable of becoming a German Debtor) selected by the Foreign Bank Creditor and not disapproved by the Bank deutscher Laender. In such case the original substituted line shall be cancelled *pro tanto* and the new line of equivalent amount shall constitute a new substituted line, and the Foreign Bank Creditor and new German Debtor shall be subject to all the provisions of this Agreement in respect of the new substituted line and forms of adherence in respect thereof shall be exchanged. If the Foreign Bank Creditor shall fail to select a new German Debtor to the satisfaction of the Bank deutscher Laender the latter may propose a new German Debtor; and, if the Foreign Bank Creditor shall refuse to accept such proposed new German Debtor, the reasonableness of such refusal shall at the request of the Bank deutscher Laender be determined by agreement between the German Committee and the relative Foreign Bankers' Committee and, if such Committees are unable to agree, then by the Arbitration Committee.

## 6. Security

(1)—(a) Where

- (i) A German Bank Debtor holds from any of its clients any security, whether general or specific (including guarantees) as collateral for credit facilities held by the German Bank Debtor at the disposal of such client and
- (ii) the credit facilities granted to such client (whether secured or not) have arisen out of any short-term credit owed to one or more Foreign Bank Creditors by the German Bank Debtor

the whole of such security or a *pro rata* share thereof for the time being held by the German Bank Debtor shall be held by the German Bank Debtor in valid and effectual trust for such Foreign Bank Creditor or Foreign Bank Creditors, upon the same terms and conditions as those upon which it is held by the German Bank Debtor. The existence of such trust shall not interfere with the administration by German Bank Debtors in accordance with ordinary banking practice of any such security from time to time held by them.

(b) In the event of the security becoming enforceable the proceeds thereof shall be divided amongst the German Bank Debtor and the Foreign Bank Creditors as nearly as possible in accordance with the provisions which would have been applicable to such division under the 1939 Agreement.

(c) The German Bank Debtors shall continue, whenever it appears to them necessary for the protection of the interests of themselves and the Foreign Bank Creditors, to obtain security from their clients and to maintain it at an appropriate amount.

(d) Each German Bank Debtor shall furnish his Foreign Bank Creditors with confirmation in writing of the holding of security in trust for them pursuant to the provisions of this sub-Clause and supply to his Foreign Bank Creditors upon general or specific request statements in the standard form agreed upon by the German Committee with the Foreign Bankers' Committees and made up as at the 30th June and the 31st December showing (i) by an estimated percentage figure, the extent to which any short-term credit referred to in paragraph (a) of this sub-Clause is secured, (ii) the total amount of the short-term credits owed by the German Bank Debtor to the Foreign Bank Creditor to whom the statement is supplied, (iii) the estimated value of the *pro rata* share of the Foreign Bank Creditor in the security mentioned in (i) above, and (iv) details of the security so held showing the nature thereof and the extent to which security is held for the obligations of any particular clients.

(2) In the case of short-term credits for account of German Commercial or Industrial Debtors the German Commercial and Industrial Debtor shall provide collateral security in favour of a Foreign Bank Creditor as follows:—

- (a) Where and so far as under the arrangement existing under the latest of the previous Agreements applicable to the relative short-term credit the German Commercial or Industrial Debtor was under obligation to provide security, he shall continue to provide security of the same character and to the same extent during the period of this Agreement.
- (b) Where and so far as the giving of security is consonant with the business of the German Commercial or Industrial Debtor and such security can be given without endangering the position of his other creditors.

(3) A German Debtor shall promptly upon demand furnish to any of his Foreign Bank Creditors a copy of his last audited Balance Sheet and such other particulars relating to his financial position as the Foreign Bank Creditor may reasonably require.

(4) A Foreign Bank Creditor may with the consent of the Bank deutscher Laender realise outside the Federal Republic any security in existence at the date of this Agreement in respect of a short-term credit and apply the net proceeds of such realisation (after payment of all expenses incurred in effecting realisation) in permanent reduction or discharge of the relative short-term credit. Provided that he shall be obligated to secure the best terms and conditions reasonably obtainable in the interest of the German Debtor.

## 7. Switching of Creditors

A Foreign Bank Creditor shall have the right to transfer any short-term credit or part thereof (i) to another Foreign Bank Creditor or (ii) to any other person, firm or corporation approved for that purpose by the Foreign Bankers' Committee of the country of the transferor and the German Committee; provided that

- (a) no such transfer shall (except by agreement with the German Debtor in question) involve any change in the terms attaching to such credit or part of a credit;

- (b) forthwith upon any such transfer being effected the necessary forms of adherence shall be exchanged between the transferee and the German Debtor;
- (c) any such transfer to a Foreign Bank Creditor or other person, firm or corporation as aforesaid in the country of one of the other Foreign Bankers' Committees shall also be subject to the consent of the Bank deutscher Laender.

Upon any such transfer being effected and the necessary forms of adherence being exchanged the transferee shall have the same rights and obligations in respect of the short-term credit or part of a credit so transferred as if he were the original creditor.

### **8. Switching of Debtors**

Any Foreign Bank Creditor may at any time during the period of this Agreement with the agreement of the German Debtor (who shall first obtain the consent of the Bank deutscher Laender) make arrangements for the transfer to another banker, banking institution or commercial or industrial firm or company in the Federal Republic (being or capable of becoming a German Debtor) of liability in respect of a short-term credit (not being a substituted line as defined in Clause 5 hereof) owing by any German Debtor. Upon such transfer being effected the Foreign Bank Creditor and the new German Debtor shall be subject to all the provisions of this Agreement in respect of such credit and forms of adherence in respect thereof shall be exchanged.

### **9. Extension of New Credits**

(1) If any Foreign Bank Creditor shall during the continuance of this Agreement make additional foreign exchange facilities available to the German economy by granting to any German bank, banking institution or commercial or industrial firm or company a new credit line (not being a substituted line as defined in Clause 5 hereof) in non-German currency for the purpose of financing trade between the Federal Republic and other countries, every original and subsequent availment of such credit line shall give rise to repayment rights in accordance with this Clause of an amount at the rate of 3 per cent. of such availment for every three months of such availment. Any such new credit line shall not be subject to this Agreement.

(2) For the purpose of this Clause the term "availment" shall include the acceptance of a bill, the granting of a cash advance and, in the case of a confirmed credit, the opening of such credit.

(3) Such repayment rights may be exercised by the Foreign Bank Creditor by applying the same to such short-term credits or parts thereof owing by any one or more of his German Debtors as the Foreign Bank Creditor may select.

(4) Upon any such availment notice may be given by the Foreign Bank Creditor to the German Debtor or Debtors to whose short-term credits or parts thereof he proposes to apply any repayment right as aforesaid and a copy of such notice, together with particulars of the new credit line and the availment thereof, shall simultaneously be forwarded by the Foreign Bank Creditor to the Bank deutscher Laender. Each such German Debtor shall as promptly as possible arrange through the Bank deutscher Laender for final repayment in foreign currency of the relative amount specified in the Creditor's notice.

(5) The provisions of sub-Clauses (5), (6) and (7) of Clause 5 hereof shall be deemed to be incorporated *mutatis mutandis* in this Clause.

(6) If any German Debtor shall fail to comply with a notice for repayment with reasonable promptitude the Foreign Bank Creditor shall be entitled to apply the relative repayment right or part thereof to some other short-term credits in accordance with the foregoing conditions.

**10. Repayment in German Currency**

(1) Any German Debtor may arrange at the request of his Foreign Bank Creditor to make repayment of a particular short-term credit or part thereof in German currency, converted as hereinafter provided, to the same extent as such German Debtor might on 24th May, 1952, have voluntarily made such repayment pursuant to Directive (50) 6 of the Allied Bank Commission to the Bank deutscher Laender dated 26th June, 1950.

(2) Conversion from foreign currency into German currency shall be calculated at the official middle rate quoted in the Federal Republic one working day previous to the day on which the payment in German currency is actually made.

(3) Every such payment shall upon acceptance by the Foreign Bank Creditor constitute final repayment of the foreign currency amount of the short-term credit or part of the short-term credit calculated at the conversion rate provided in sub-Clause (2) of this Clause.

(4) Balances in German currency arising from repayment of short-term credits pursuant to this Clause or Clause 11A shall be applicable and transferable as permitted under provisions of any Allied laws, ordinances, directives and licences (including General and Special licences issued by the Bank deutscher Laender) in effect in the Federal Republic on 24th May, 1952, or as otherwise permitted by the Bank deutscher Laender. However, no regulation of the Bank deutscher Laender shall at any time with regard to the transfer and use of German currency balances and affecting Foreign Bank Creditors be more unfavourable in effect to such Creditors, or cause their rights to be more limited, than such rights as existed under the aforesaid laws, ordinances, directives and licences.

**11. Commission and Interest Charges**

As from the date of this Agreement all commission and discounting charges in keeping with usual banking practice, together with bill stamp duty, shall be paid in advance and interest shall be paid monthly in the currency in which the respective credit is maintained. It is desirable that commission and interest charges shall not be more than reasonable under the circumstances and should any difference arise as to the amount thereof between a Foreign Bank Creditor and a German Debtor the matter may be referred to their respective Central Banks.

**11A. Arrears of Interest**

Interest on short-term credits at the rate of 4 per cent. per annum for the period since the date to which such interest was last paid to the Foreign Bank Creditor or the date of termination of the latest of the previous Agreements applicable thereto (whichever be the later) up to the date of this Agreement shall, at the option of the Foreign Bank Creditor concerned, either

- (i) as of the date of this Agreement be added to the principal of the relative short-term credit and form part thereof for the purpose of adherence to and for all other purposes of this Agreement, or
- (ii) be postponed and fall due in the relative foreign currency upon the termination of this Agreement, provided however that at any time prior to such termination the Foreign Bank Creditor may be paid

pursuant to the provisions of Clause 10 hereof all or any part of such postponed interest in German currency (converted at the official middle rate quoted in the Federal Republic one working day previous to the day on which payment is actually made).

Each Foreign Bank Creditor, upon giving notice to his German Debtor of adherence to this Agreement, shall at the same time notify such Debtor which of the options the Creditor elects to exercise and, if no election is so notified, the Creditor shall be deemed to have elected to exercise option (i).

## **12. Prorating of Payments and Security by German Banks**

(1) If a German Debtor, who is indebted both to a Foreign Bank Creditor and to a German Bank Debtor, has become insolvent or has sought a composition or other arrangement of a similar character with all or some of his creditors or has been declared bankrupt within the period of this Agreement or within three months thereafter, the German Bank Debtor shall prorate with the Foreign Bank Creditor any repayments received by the German Bank Debtor from the German Debtor at any time within four months before the happening of such event, as well as any security (including guarantees) received from the German Debtor at any time within the period of this Agreement.

(2) The Trustee in bankruptcy (Konkursverwalter), any German official in charge of any composition or arrangement as aforesaid and the German Bank Debtor shall furnish all the Foreign Bank Creditors concerned with full information as to any repayments made or security given as aforesaid.

## **13. Retention of the Liability of Guarantors, etc.**

(1) No guarantor, endorser or credit insurer in the Federal Republic in respect of any short-term credit shall obtain any release from obligations under his guarantee, endorsement or insurance by reason of the postponement of or any change in the form of such short-term credit or part thereof (including the change provided for in Clause 19 hereof) by virtue of or consequent upon this Agreement and no debtor in the Federal Republic whether absolutely or contingently liable in respect of any short-term credit shall be released by reason of any partial payment on account thereof by any third party or by reason of any change in the form of such short-term credit or any part thereof by virtue of or consequent upon this Agreement. If the indebtedness of a German Debtor is guaranteed or credit insured by a guarantor or credit insurer outside the Federal Republic who does not assent to the postponement of or change in the form of such indebtedness the German Debtor shall not be entitled to the benefit of this Agreement.

(2) If a person being a partner of a firm which is a German Bank Debtor or German Commercial or Industrial Debtor ceases to be a partner during the continuance of this Agreement whether owing to his death or from any other cause any liability arising under any short-term credit maintained under this Agreement shall be deemed to be a liability existing at the date when such person ceased to be a partner; and the personal liability of such person or if he be dead the liability of his estate for liabilities of his firm which were existing at the date when he ceased to be a partner shall apply to any liability arising under any such short-term credit while maintained under this Agreement.

## **14. Bankruptcy, Insolvency or Breach; and Effect of Loss of Benefits of this Agreement by a German Debtor**

(1) If at any time during the period of this Agreement a German Debtor is declared bankrupt or becomes insolvent he shall forthwith cease to enjoy

any benefits and privileges under this Agreement. If a Foreign Bank Creditor during the period of this Agreement claims that a German Debtor has become insolvent and this claim is disputed either party shall have the right to refer the dispute for decision to the Arbitration Committee. Pending a decision by the said Arbitration Committee the Foreign Bank Creditor shall refrain from taking any steps against the German Debtor.

(2) If at any time during the period of this Agreement a German Debtor applies to the competent tribunal for a composition (Vergleichsverfahren) or other arrangement of a similar character with all or some of his creditors any Foreign Bank Creditor of such Debtor at any time before such composition or other arrangement is confirmed by the competent tribunal may give notice to such Debtor terminating this Agreement as between the parties and upon the giving of such notice the Debtor shall cease to enjoy any benefits and privileges under this Agreement.

(3) If at any time during the continuance of this Agreement a Foreign Bank Creditor claims that a German Debtor has committed a breach of any of the provisions of this Agreement and has failed to remedy such breach upon request within a fortnight of receipt of formal notice from the Foreign Bank Creditor, such Foreign Bank Creditor may refer the dispute to the Arbitration Committee for decision. If such reference shall have been so made no steps shall be taken in the matter by any party to this Agreement pending a decision by the Arbitration Committee. If the Arbitration Committee shall give a decision adverse to the German Debtor and the German Debtor shall fail, within a fortnight of the decision of such Committee, to comply therewith the German Debtor shall forthwith cease to enjoy any benefits or privileges under this Agreement in respect of the short-term credit held at his disposal by the Foreign Bank Creditor.

(4) If a German Debtor ceases at any time to enjoy any benefits or privileges under this Agreement by reason of any of the provisions of the foregoing sub-Clauses of this Clause, then in the case of bankruptcy, insolvency or composition (Vergleichsverfahren) or other arrangement of a similar character with all or some of his creditors his indebtedness to all his Foreign Bank Creditors, and in the case of a breach of his indebtedness to the Foreign Bank Creditor or Creditors affected by such breach, shall forthwith become due and payable and thereupon nothing shall prevent the Foreign Bank Creditor or Creditors concerned from prosecuting and enforcing all his or their claims against the German Debtor including the exercise of such remedies as he or they would have if permanently resident in the Federal Republic.

(5) The fact that a German Debtor has lost the benefit of this Agreement shall not prejudice the rights of any party which existed at the date on which such loss of benefit took place and in particular shall not prejudice the rights of his Foreign Bank Creditor against the Deutsche Golddiskontbank in respect of any guarantee of short-term credits in respect of which such Debtor was liable.

(6) If a German Debtor shall at any time cease to enjoy any benefits or privileges under this Agreement by reason of notice given pursuant to sub-Clause (2) of this Clause other than in case of a composition (Vergleichsverfahren), then the provisions of Clause 16 hereof shall not be applicable to the obligations of such Debtor in respect of the relative indebtedness.

**15. Maintenance of Credits for Longer Periods**

Any Foreign Bank Creditor may make arrangements with his German Debtor for the maintenance of his short-term credits or some of them for a period longer than is provided by Clause 2 of this Agreement or for the substitution of such credits by other credits to be maintained for a period

longer than is provided by that Clause. On the making of any such arrangement the short-term credit or short-term credits which is or are so extended or substituted shall cease to be subject to this Agreement if the Bank deutscher Laender agrees.

#### **16. Provision of Foreign Exchange**

The Bank deutscher Laender undertakes to make available at all times during the period of this Agreement the necessary foreign exchange to enable the German Debtors to discharge the obligations necessitating the provision of foreign exchange and assumed by them under or pursuant to this Agreement.

#### **17. Consultative Committee**

(1) For the purpose of conferring from time to time with the German Committee and the Bank deutscher Laender and keeping the Foreign Bankers' Committees informed of matters arising during the period of this Agreement and of performing such other duties, consistent with the terms of this Agreement, as shall be entrusted to them under this Agreement or by the Foreign Bankers' Committees, a meeting of a Consultative Committee consisting of delegates representing the Foreign Bankers' Committees may be convened at any time by the Chairman of the Joint Committee of Representatives of Foreign Bankers' Committees and shall be so convened by him at any time if he is requested so to do by the German Committee or by any Foreign Bankers' Committee. Each Foreign Bankers' Committee signatory to this Agreement shall be entitled to nominate a delegate. Any meeting fixed by or in accordance with this Clause may be cancelled or postponed by notice given by the Chairman of the said Joint Committee.

(2) Subject as hereinafter provided all decisions of the delegates shall be taken by the vote of delegates present and representing a majority of the Foreign Bankers' Committees, provided that such majority of Foreign Bankers' Committees shall represent not less than 50 per cent. in face value of the short-term credits then outstanding.

(3) The Committee herein appointed may by unanimous vote of the delegates present at a meeting and with the agreement of the German Committee construe and amend the terms of this Agreement from time to time, provided that no amendment shall be made which shall substantially change the rights of the parties or adherents hereto. The determination of the Committee herein appointed and of the German Committee that any such amendment does not substantially change such rights shall be binding on all the parties and adherents hereto.

(4) If at any time it becomes possible under laws then in force in the Federal Republic for a Foreign Bank Creditor to require repayment of a short-term credit or any part thereof in German currency, then the Consultative Committee by unanimous vote of its delegates at a meeting (or by written agreement of all such delegates without a formal meeting) may amend Clauses 10 and 11A of this Agreement so as to make payment in German currency thereunder compulsory upon the Debtor if and to the extent that a Foreign Bank Creditor shall require the same subject, however, to any then still subsisting limitations in force in the Federal Republic regarding such payments. Any such amendment shall be binding upon all the parties and adherents hereto.

#### **18. Investments under Previous Agreements**

As from the date of this Agreement interest and earnings in respect of investments made out of Registered Credit Balances pursuant to Clause 10 of

any of the previous Agreements shall be dealt with as provided in clause 10 (5) (g) of the 1939 Agreement; provided that the rate at which such interest and earnings will be transferred shall not exceed the rate of interest for the time being payable on short-term credits to Foreign Bank Creditors in the same creditor country.

### 19. Maturity of Credits

All indebtedness arising under short-term credits covered by this Agreement shall mature on the expiration or termination hereof and such indebtedness shall thereupon become due and payable. Furthermore, on such expiration or termination, Foreign Bank Creditors shall be entitled to debit the accounts of German Debtors with the amount of all bills accepted for account of such German Debtors notwithstanding the fact that the bills themselves are drawn for later maturity but so that no interest shall be chargeable until the bills mature. In the case of confirmed credits, Foreign Bank Creditors shall be entitled to debit as an actual liability the amount of all bills drawn thereunder prior to the expiration of this Agreement, notwithstanding the fact that such bills have not at that date been presented for acceptance and, as a contingent liability, the unused balance of any confirmed credit, but so that interest shall not be chargeable until the bills mature or until cash has actually been advanced by Foreign Bank Creditors in respect of such credits.

### 20. Arbitration

(1) In case any dispute shall occur between Foreign Bank Creditors and German Debtors<sup>(1)</sup> or the Bank deutscher Laender as to the interpretation of this Agreement or as to any matter or thing arising thereout, the same shall be referred to an Arbitration Committee constituted in accordance with the provisions of this Clause.

(2) The Arbitration Committee shall be constituted as follows:—

(a) The Bank for International Settlements shall nominate three persons to serve as permanent members of the Arbitration Committee, designating one of such persons as Chairman of the Committee and a second person as Vice-Chairman to preside over any meeting of the Committee in the absence of the Chairman.

(b) In addition the Bank for International Settlements shall nominate three persons who shall be available to serve as alternate members of the Arbitration Committee in place of any one or more of the permanent members who may from time to time be unable through illness or otherwise to attend meetings of the Committee, specifying the permanent member which each such alternate is to replace. No alternate shall be entitled to attend any meeting of the Committee except in the absence of and as substitute for his respective permanent member.

(3) The Rules of the Arbitration Committee shall provide *inter alia* that:—

(a) Not less than ten days' notice shall be given to each of the signatories to this Agreement (that is to say, the Foreign Bankers' Committees, the German Committee and the Bank deutscher Laender) of the hearing of any questions referred to the Arbitration Committee by any of such signatories and thereupon each of such signatories shall have the rights of a party to the proceedings as provided in the next succeeding paragraph of this sub-Clause.

(1) See Sub-Annex.



- (b) In respect of every question referred to the Arbitration Committee all parties to the proceedings shall be entitled to be represented at the hearing thereof by a representative, lawyer or other agent and to submit for consideration of the Arbitration Committee a written statement of arguments in support of or in opposition to such question in accordance with such regulations as to procedure as the Arbitration Committee may from time to time prescribe.
- (c) The Arbitration Committee shall decide from time to time the times and places at which the sessions of the Committee are to take place and shall give due notice thereof to all signatories to this Agreement.
- (d) The Arbitration Committee shall in respect of every decision made by it, whether or not such decision is unanimous, state briefly in writing the grounds upon which such decision is based provided, however, that the grounds for the Committee's decision need not be given if the Committee so determines by a unanimous vote, unless one of the parties has prior to the hearing requested in writing that the grounds be stated. In cases where no grounds are stated the award shall contain a record of the fact that a unanimous decision to that effect was passed by the Committee and that no request was made by any of the parties as aforesaid.
- (e) If the Arbitration Committee shall, in respect of any question referred to it, declare itself not to be competent to decide the same and if upon application to the appropriate court of law in the country of any of the parties to the proceedings, jurisdiction shall be declined upon the ground that jurisdiction rests with the Committee, or, if the question be referred back wholly or in part to the Committee, then in either such case the Committee shall decide the question.

## 21. Expenses

The costs and expenses of and incidental to the preparation and execution of this Agreement and of carrying the terms thereof into effect, including all legal costs and other expenses properly incurred by Foreign Bankers' Committees prior to the execution of this Agreement (but not earlier than 1st November, 1950) and during the continuance thereof, shall be for the account of the German Debtors. Provision for the payment of all such costs, expenses and remuneration shall be made by the German Committee.

## 22. Adherence

(1) Adherence to this Agreement shall be effected by each Foreign Bank Creditor notifying to his German Debtor or Debtors within two months from the coming into force of this Agreement his willingness to adhere, by means of a letter in standard form rendered in duplicate (specifying the short-term credits in respect of which such German Debtor or Debtors are liable and in respect of which adherence is made) which will be obtainable from the Foreign Bankers' Committees in the respective foreign creditor countries. Every German Debtor shall forward within four days of receipt of a letter of adherence from any of his Foreign Bank Creditors a letter confirming his adherence<sup>(1)</sup> in standard form which will be obtainable from the Bank deutscher Länder or any Landeszentralbank.<sup>(1)</sup> Adherence by the Foreign Bank Creditor may be effected by cable subsequently confirmed in the foregoing manner.

(2) Each Foreign Bank Creditor who formerly participated in a syndicate credit shall be entitled to adhere to this Agreement in respect of his participation in the business.

<sup>(1)</sup> See Sub-Annex.

(3) Upon adherence having been effected the Foreign Bank Creditor and the German Debtor shall become parties to this Agreement in respect of the short-term credits so specified, and shall thenceforth be entitled to the rights granted to and be subject to the obligations to be assumed by the Foreign Bank Creditors and German Debtors respectively under this Agreement.

(4) Any Foreign Bankers' Committee may, with the consent of the German Committee, extend the time within which any one or more Foreign Bank Creditors in its country may adhere to this Agreement. Provided that where any person, firm or company in the Federal Republic becomes liable in respect of a short-term credit or part thereof by way of succession or substituted succession during the period of this Agreement or where new adherences are exchanged pursuant to Clause 5, 7 or 8 hereof, adherence in respect of such credit or part of a credit may be made without such consent as aforesaid within a reasonable time after such succession or other relevant event takes place.

(5) In the case of any short-term credit or part thereof which has been granted to a bank debtor who is not ordinarily resident inside the Federal Republic or whom his Foreign Bank Creditor can no longer locate or identify and in respect of which a client of such bank debtor ordinarily resident inside the Federal Republic is also liable, such client shall be bound (if the Foreign Bank Creditor so requires) to adhere to this Agreement in respect of such credit or part of a credit to which the provisions of this Agreement shall then apply as if the same had originally been granted direct to the client.

(6) In the case of any short-term credit or part thereof which has been granted to a commercial or industrial debtor who is not ordinarily resident inside the Federal Republic or whom his Foreign Bank Creditor can no longer locate or identify and in respect of which some person ordinarily resident inside the Federal Republic is also liable as guarantor, endorser or credit insurer, such person shall be bound (if the Foreign Bank Creditor so requires) to adhere to this Agreement in respect of such credit or part of a credit to which the provisions of this Agreement shall then apply as if the same had originally been granted direct to such person.

(7) Where a German banking, commercial or industrial concern becomes or has become the successor to the primary liability under any short-term credit or part thereof pursuant to or as a result of German law (e.g., Reg. 35 under Monetary Law No. 63 or Credit Institution Law promulgated March 29, 1952) the Foreign Bank Creditor may adhere to this Agreement *vis-à-vis* such concern in respect of such credit or part of a credit and such concern shall confirm adherence on its part in the manner and with the effects provided in this Agreement. This provision shall also be operative in the case of any substituted succession in respect of a short-term credit or part thereof where such substitution is in accordance with laws now in force in the Federal Republic (e.g., Art. 7 (3) of Credit Institution Law promulgated March 29, 1952). Upon adherence by any successor German Debtor in respect of a short-term credit or part thereof the relative adherence by any predecessor German Debtor shall (except as herein otherwise provided) cease to have force and effect.

(8) Where pursuant to laws now in force in the Federal Republic (e.g., Reg. 35 under Monetary Law No. 63 or Credit Institution Law promulgated March 29, 1952) one or more successor banking institutions become or have become jointly liable with the original German Bank Debtor in respect of a short-term credit or part thereof, then (subject to the provisions of the two succeeding sub-Clauses) such successor institution or institutions shall also adhere to this Agreement in respect of such credit or part of a credit, but in

such case the adherence of the original German Bank Debtor shall continue in full force and effect.

(9) In the case of any short-term credit or part thereof which has been granted to a German Bank Debtor and in respect of which a client of such German Bank Debtor ordinarily resident outside the Federal Republic is also liable, neither the German Bank Debtor nor any banking institution jointly liable with it shall be obliged to take any action in respect of such credit or part of a credit under the provisions of this Agreement (except to adhere by way of acknowledgment of the existence and amount of such credit or part of a credit) unless and until the Foreign Bank Creditor would be entitled in the absence of this Agreement to enforce payment in the Federal Republic of the relative indebtedness under German law.

(10) In the case of any short-term credit derived from an original cash advance which was not converted into an acceptance credit, payment of which the Foreign Bank Creditor (by reason of laws for the time being in force in the Federal Republic, *e.g.*, Reg. 35 under Monetary Law No. 63 or Art. 7 (2) of the Credit Institution Law promulgated March 29, 1952) can enforce within the Federal Republic only to the extent of a proportionate part, the German Bank Debtor and any banking institution which may be jointly liable with it shall not be obliged to take any action under the provisions of this Agreement in respect of that proportionate part which the Foreign Bank Creditor cannot for the time being enforce (except to adhere by way of acknowledgment of the existence and amount thereof) until the Foreign Bank Creditor would be entitled in the absence of this Agreement to enforce payment in the Federal Republic of the relative indebtedness under German law.

### **23. Deutsche Golddiskontbank**

(1) Nothing contained herein shall limit the obligations of, or the rights of any Foreign Bank Creditor against the Deutsche Golddiskontbank as the same are set forth or incorporated in the latest of the previous Agreements applicable to a particular short-term credit and Clause 23 of the 1939 Agreement is incorporated herein by reference (to be effective as from the date of this Agreement) except that as regards the text of such Clause:—

- (a) sub-Clause (3) thereof shall be deemed to be amended so that the words “this Agreement” in sub-Clause (5) (b) of Clause 23 of the 1933 Agreement shall be substituted by the words “any of the previous Agreements.”
- (b) sub-Clause (4) thereof shall be deemed to be amended so that the words “Clause 23 of the 1932, 1933, 1934, 1935, 1936, 1937 and 1938 Agreements” shall be substituted by the words “Clause 23 of any of the previous Agreements.”
- (c) sub-Clauses (5) and (7) thereof shall be deleted.

(2) The Liquidator of the Deutsche Golddiskontbank by signing this Agreement accepts the provisions of sub-Clause (1) of this Clause and severally acknowledges to each Foreign Bank Creditor holding any short-term credit or part of a short-term credit payment of which has heretofore been guaranteed by the Deutsche Golddiskontbank and in respect of which adherence is made to this Agreement that, to the extent that such credit or part of a credit has not heretofore been paid or satisfied, the liability upon such guarantee remains in full force and effect.

### **24. Payments from Other Sources**

In the event that subsequent to his adherence to this Agreement any Foreign Bank Creditor shall in relation to any existing indebtedness owed by

a debtor in the territory comprised in the German State on the 31st day of December, 1937, accept payment of any sum of money from a source other than such debtor, which sum he is required by operation of law or otherwise or elects to apply against short-term credits covered by this Agreement, then such Foreign Bank Creditor shall apply such moneys in permanent repayment of indebtedness in respect of the short-term credit or credits (if any) in relation to which such sum was received; provided that if such sum was not received in relation to any particular short-term credit or credits then, unless the Foreign Bank Creditor has other indebtedness of the nature aforesaid (not being short-term credits) owing to him against which he can legally apply and elects to apply such moneys, the same shall be applied by the Foreign Bank Creditor against such short-term credit or credits as he may select. Promptly upon application of such moneys in reduction of any short-term credit or credits the Foreign Bank Creditor shall notify the relative debtor or debtors and the German Committee and his own Foreign Bankers' Committee of such application and the indebtedness in respect of the short-term credit or credits against which such moneys are so applied shall thereafter be permanently repaid accordingly.

**25. Execution and Short Title**

(1) The original parts of this Agreement executed by the German Committee, the Bank deutscher Laender and the respective Foreign Bankers' Committee shall be forwarded through the respective Central Banks to the Bank for International Settlements for retention by that institution in safe custody for all parties interested therein.

(2) For purposes of reference this Agreement may be referred to as "THE GERMAN CREDIT AGREEMENT OF 1952."

**26. Notices**

Any notice in writing, formal or otherwise, required to be given pursuant to any of the provisions of this Agreement shall be deemed to have been duly given if sent by post, telegram, radiogram or cablegram (charges prepaid) to or delivered at an address furnished by the party entitled to receive the notice or if no such address shall have been furnished, the said party's usual place of business.

**27. [Deleted.]**

**28. Headings**

Headings are intended for reference only and are not intended in any way to govern the construction of this Agreement.

**29. Requisite Signatures**

This Agreement shall become effective when signed by the German Committee and the Bank deutscher Laender and when signed and (where appropriate) ratified by Foreign Bankers' Committees representing Foreign Bank Creditors whose short-term credits constitute 75 per cent. in face value of the short-term credits outstanding.

## SUB-ANNEX TO ANNEX III

### Exchange of letters between Creditor and Debtor Representatives recording Supplementary Understandings reached by them with respect to Annex III

To:

The American Committee for Standstill Creditors of Germany.  
The British Banking Committee for German Affairs.  
The Swiss Banking Committee for the German Credit Agreement.

Dear Sirs,

#### The German Credit Agreement of 1952

We refer to the statements which have been made by the Tripartite Commission on German Debts on behalf of the Governments represented thereon and by the German Delegation on behalf of the Government of the Federal Republic of Germany that their Governments are prepared by appropriate administrative action in Germany to permit the German Credit Agreement of 1952 (contained in Annex III to the Agreement on German External Debts and below referred to as "the 1952 Agreement") to come into force on ratification of the Agreement on German External Debts by the Federal Republic of Germany, except that foreign currency payments provided for in the 1952 Agreement, other than those normally arising pursuant to Clause 5 thereof, shall be postponed until the Agreement on German External Debts (below referred to as the "Intergovernmental Agreement") comes into force in accordance with Article 35 thereof.

We also refer to the forms of Adherence proposed to be exchanged conditionally between creditors and debtors under the 1952 Agreement in which reference is made (*inter alia*) to the postponement of foreign currency payments under that Agreement as mentioned above and the debtors agree that upon the 1952 Agreement becoming fully effective pursuant to the said Intergovernmental Agreement, they will make prompt payment to the creditors of all foreign currency payments under the 1952 Agreement which shall in the meantime have been postponed.

We hereby agree that the 1952 Agreement shall come into force upon compliance with the provisions of Clause 29 thereof and upon ratification of the said Intergovernmental Agreement by the Federal Republic of Germany, but shall cease to become effective if it is not included in the said Intergovernmental Agreement when the latter Agreement comes into force. Accordingly Clause 2 of the 1952 Agreement shall be read as if the date when compliance shall have been made with Clause 29 of that Agreement and when ratification of the Intergovernmental Agreement shall have been made by the Federal Republic of Germany were inserted therein as the date upon which the provisions of the 1952 Agreement shall come into force.

We further agree that, if the 1952 Agreement is included in the said Intergovernmental Agreement when the latter Agreement comes into force in accordance with Article 35 thereof, we will do all such things as are within our respective powers to enable prompt payment to be made to the creditors of all foreign currency payments under the 1952 Agreement which shall in the meantime have been postponed.

We confirm that, by agreement between the parties to the 1952 Agreement, the following amendments are to be made to the text of that Agreement as contained in Appendix 5 to the Final Report of the Conference on German

External Debts and are to be incorporated in the Agreement in the form in which it is signed, viz :—

*Paragraph (7) of Preamble.*—The words “Government of the Federal Republic or other appropriate authority” to be substituted by the words “appropriate governmental authorities in the Federal Republic of Germany and the Western Sectors of Berlin.”

The word “and” to be inserted at the end of sub-paragraph (ii) and the same word to be deleted at the end of sub-paragraph (iii).

Sub-paragraph (iv) to be preceded by the words “and shall ensure as far as possible that”.

*Clause 1 : Definitions.*—The words “and relates to the identification of territory and not to governmental jurisdiction” to be added at the end of the definition of “Federal Republic.”

*Clause 20 : Arbitration.*—In sub-Clause (1) the words “who have adhered to this Agreement” to be inserted after the words “German Debtors”.

*Clause 22 : Adherence.*—In sub-Clause (1) the words “confirming his adherence” to be deleted and the words “confirming his adherence to this Agreement and (if the creditor so requests) agreeing that he will adhere to any renewal or extension thereof that may be signed by the German Committee and the Bank deutscher Länder” to be inserted at the end of the second sentence of that sub-Clause.

We, the undersigned German Committee, hereby consent, in accordance with Clause 22 (4) of the 1952 Agreement, to your Committee’s extending the time within which any one or more foreign bank creditors in your respective countries may adhere to the 1952 Agreement to enable such adherence to be made at any time within two months of the said Inter-governmental Agreement coming into force.

Yours faithfully,

(signed)

For and on behalf of the German  
Committee for Standstill Debts.

(signed)

For and on behalf of the Bank  
deutscher Länder.

(Sent on the 19th of February, 1953.)

To:

The German Committee for Standstill Debts.  
The Bank deutscher Länder.

Dear Sirs,

### The German Credit Agreement of 1952

We acknowledge receipt of your letter with regard to the arrangements for the bringing into force of the above Agreement and the temporary postponement of payment to the creditors of foreign currency payments provided for in that Agreement, other than those normally arising pursuant to Clause 5 thereof, and hereby confirm our acceptance of the terms and conditions set out in your letter.

In particular we agree—

- (a) that the 1952 Agreement shall come into force upon compliance with the provisions of Clause 29 thereof and upon ratification of the Agreement on German External Debts (below referred to as the "Intergovernmental Agreement") by the Federal Republic of Germany but shall cease to become effective if it is not included in the said Intergovernmental Agreement when the latter Agreement comes into force;
- (b) that all foreign currency payments provided for in the 1952 Agreement, other than those normally arising pursuant to Clause 5 thereof, shall be postponed until the Intergovernmental Agreement comes into force in accordance with Article 35 thereof; and
- (c) that the amendments to the text of the 1952 Agreement set out in your letter are to be incorporated in the Agreement in the form in which it is signed.

This letter may be executed in several counterparts which taken together will constitute one and the same instrument.

Yours faithfully,

(signed)

For and on behalf of the American  
Committee for Standstill Creditors  
of Germany.

(signed)

For and on behalf of the British  
Banking Committee for German  
Affairs.

(signed)

For and on behalf of the Swiss Bank-  
ing Committee for the German  
Credit Agreement.

(Sent on the 20th of February, 1953.)

ANNEX IV

[Note: The text reproduced hereunder is the text of Appendix 6 to the Report of the Conference on German External Debts with such changes as were required to achieve uniformity in the three languages.]

**Agreed Recommendations for the Settlement of Claims arising out of Goods and Services Transactions, of certain Claims arising from Capital Transactions and of various other Claims**

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**Section A.—Classification of Claims**

ARTICLE

- 1. Claims arising out of transactions for goods and services.
- 2. Claims arising out of private financial transactions.
- 3. Income from investments.
- 4. Other monetary claims.
- 5. Exceptions.

**Section B.—General Principles**

- 6. Conversion into Deutsche Mark.
- 7. Claims expressed in foreign currency with gold clauses.
- 8. Computation in Deutsche Mark of claims expressed in foreign currency.
- 9. Konversionskasse for German External Debts.
- 10. Payments into the Deutsche Verrechnungskasse.
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- 12. Succession to claims and debts by operation of law.
- 13. Change of creditor.
- 14. Participation in the Debt Settlement, foreign currency regulations, debtor obligations.
- 15. Settlement of disputes.
- 16. Mixed Commission.
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- 18. Payment in Deutsche Mark.
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- 20. Effect of the settlement on claims.
- 21. Currency option clauses without a gold clause.
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**Section C.—Settlement of Old Commercial Claims**

- 26. Claims arising out of supplies of goods.
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- 28. Wages, salaries, pensions based on employment, commission.
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- 30. Claims arising out of private insurance business.
- 31. Other old commercial claims.
- 32. Joint provisions for old commercial debts.

**Section D.—Settlement of Claims arising out of Private Financial Transactions**

- 33. Claims in German currency.
- 34. Claims in non-German currency.

**Section E.—Arrears of Income from Investments**

35.

**Section F.—Other Monetary Claims**

36.

Sub-Annex—Joint Statement by the German and Swiss Delegations concerning the negotiations on the Swiss Franc Land Charges (Schweizer Frankengrundschulden).



## Section A.—Classification of Claims

The settlement shall include:

### ARTICLE 1

Monetary claims arising out of international transactions for goods and services, as well as monetary claims of a similar character, against private or public debtors which became due before 8th May, 1945 (old commercial claims).

These cover, in particular—

- (1) Claims arising out of supplies of goods;
- (2) Claims arising out of prepayments for supplies of goods and services;
- (3) Incidental charges in connection with the exchange of goods, in so far as they are not contained in the invoice; these also cover freights and similar items;
- (4) Claims arising out of services, in so far as they are not comprised in other items; these also cover directors' and trustees' fees;
- (5) Claims in respect of industrial property rights, copyrights, technical aid and similar claims;
- (6) Claims for damages in connection with goods and services transactions which arose and became due prior to 8th May, 1945;
- (7) Wages, salaries and pensions based on employment, and commission;
- (8) Payments arising out of social insurance;
- (9) Claims arising out of private insurance business.

Claims not specifically mentioned in paragraphs (1) to (9) which clearly fall within the scope of the international goods and services transactions dealt with in this section, shall be allotted to the corresponding items.

### ARTICLE 2

The following claims which arose out of financial transactions before 8th May, 1945, including any interest outstanding, against non-public debtors:—

- (1) Claims expressed in German currency without gold or non-German currency clause;
- (2) Claims expressed either in foreign currency or in German currency with gold or foreign currency clause, which—
  - (a) are owed by natural persons and not contracted in the name of a firm belonging to the debtor, irrespective of duration and amount; or
  - (b) are owed by German firms and belong to natural or legal persons, or groups of persons, who are directly or indirectly owners of the German firms concerned, irrespective of whether the claims are in the form of non-marketable bonds or in any other form; or
  - (c) originally had a duration stipulated at less than 5 years; or
  - (d) were originally below the sum of U.S.\$40,000 or its equivalent (at the rate of exchange on 1st July, 1952), irrespective of duration.
- (3) Claims not specifically mentioned in (1) and (2) but clearly falling within the scope of claims arising from financial transactions and not falling under the settlement proposals in Annexes I to III to the Agreement on German External Debts.

- (4) By way of exception, claims arising out of mortgages and land charges (Grund- und Rentenschulden) where the debtor or land owner is a Gemeinde (municipality) or another public institution and the charge does not form part of a loan contract.

See Sub-Annex regarding the Swiss franc land charges (Schweizer Frankengrundsulden) pursuant to the German-Swiss Agreements of 6th December, 1920, and 25th March, 1923.

#### ARTICLE 3

Income of foreign creditors from investments in the Federal Republic of Germany or Berlin (West), which was due before 8th May, 1945, in so far as it is not dealt with in the Agreement on German External Debts or in another Annex thereto.

This includes, in particular—

- (1) Dividends on securities issued within the Federal Republic or Berlin (West);
- (2) Profits;
- (3) Rents.

#### ARTICLE 4

Monetary claims which arose prior to 8th May, 1945, not dealt with in other Annexes to the Agreement on German External Debts and not mentioned in Articles 1-3 of this settlement proposal, but which by their character fall within the scope of this settlement proposal.

#### ARTICLE 5

*Exceptions—*

Excluded from this settlement proposal are, until otherwise stipulated, claims against the City of Berlin and against public utilities located in the area of and controlled by Berlin.

### Section B.—General Principles

#### ARTICLE 6

##### *Conversion into Deutsche Mark*

(1) Claims expressed in Reichsmark shall be settled after the foreign creditor has declared his agreement to his claim being converted into Deutsche Mark at the same rate as would apply in the case of a similar claim of a domestic creditor. This applies also to such monetary claims expressed in Goldmark or Reichsmark with a gold clause as have no specific foreign character within the meaning of the following paragraph (2). The German Foreign Exchange Control Authorities shall continue to issue any licence necessary for a conversion pursuant to the Conversion Law or for a modification of the conversion rate pursuant to the legislation on Deutsche Mark balance sheets, to the extent that the creditor is entitled to such conversion or modification.

(2) The principle is accepted that such monetary claims arising from financial transactions and mortgages, expressed in Goldmark or in Reichsmark with a gold clause as had a specific foreign character, shall be converted into Deutsche Mark at the rate of 1 Goldmark, or 1 Reichsmark with a gold clause, = 1 Deutsche Mark.

The definition of the criteria constituting the specific foreign character of such claims shall be the subject of further negotiation<sup>(1)</sup>. The contracting parties reserve their position as to the question in which cases and in which way the above principle can be implemented. It shall lie with the German Delegation to decide how the solution arrived at can be fitted into the framework of the German laws on currency reform and on the equalisation of war and post-war burdens.

The above-mentioned negotiations between a German Delegation and the creditors' representatives should take place not later than 31st October, 1952.

#### ARTICLE 7

##### *Claims expressed in Foreign Currency with Gold Clauses*

For the purpose of the settlement of these claims the following principles shall apply *mutatis mutandis* :—

In the case of debts expressed in gold dollars or gold Swiss francs, the debts shall be computed on the basis of 1 currency dollar equalling 1 gold dollar and 1 currency Swiss franc equalling 1 gold Swiss franc, and the new contracts shall be expressed in currency dollars or currency Swiss francs respectively.

In the case of other debts with gold clauses (excluding German currency debts with gold clauses—see Article 6, paragraph 2) the amounts due shall be payable only in the currency of the country in which the loan was raised or the issue was made (referred to below as “the currency of issue”), the amount due being computed as the equivalent at the rate of exchange when the amount is due for payment of a sum in U.S. dollars which shall be arrived at by converting the amount of the obligation expressed in the currency of issue into U.S. dollars at the rate of exchange ruling when the loan was raised or the issue made. The amount of currency of issue so reached shall, however, not be less than if it were computed at the rate of exchange current on 1st August, 1952.

#### ARTICLE 8

##### *Computation in Deutsche Mark of Claims expressed in Foreign Currency*

Claims expressed in foreign currency shall be computed in Deutsche Mark based on the parity of the day preceding the date of repayment, as notified to the International Monetary Fund. Where no parity is laid down, the computation shall be made according to the mean rate of exchange quoted by the Bank deutscher Länder on the day preceding the date of payment.

#### ARTICLE 9

##### *Konversionskasse for German External Debts*

I.—The German Delegation was of the opinion that the German debtor was definitively discharged of his debt to the extent of his payments into the Konversionskasse. The creditor representatives, on the other hand, were of the opinion that as a rule such payments into the Konversionskasse would not be recognised as discharging the German debtors under the laws of their respective countries.

In their desire to put an end to fruitless legal discussions, both sides agreed to seek a practical solution which would permit settlement of the claims of the creditors without unnecessary formalities.

(1) See now Annex VII.

Accordingly the German Delegation and the foreign creditor representatives, while reserving their respective legal positions, have agreed as follows :—

- (1) The German debtor undertakes to settle the creditor's claim in accordance with the new settlement terms, regardless of the payments made to the Konversionskasse, to the extent that the creditor—
  - (a) has not in fact received from the Konversionskasse the payment corresponding to that made by the debtor to it, or
  - (b) refused to accept a payment or performance from the Konversionskasse based on a payment made by the debtor, on the ground that he (the creditor) was unwilling to recognise such payment or performance as discharging the debt.

In the case of securities subject to the validation law for German Foreign Currency Bonds, the arrangement set out above shall apply only to such Bonds and Coupons as shall have been validated pursuant to the provisions of such law and of any agreement entered into with the country of issue respecting the application of such law, or with respect to the declaratory decrees (Feststellungsbescheide) which the creditor shall have received pursuant to the said law.

- (2) The amounts so paid by the debtors shall be reimbursed to them out of German public funds.
- (3) Payments made by the debtor into the Konversionskasse which do not fall within the provisions of sub-paragraph (1) shall be considered as discharging the debt to the extent of such payments.

II.—Subject to the general provisions contained in paragraph I above :—

- (a) the Federal Government agrees to assume liability for full payment in the due currencies to the foreign creditors of the sums paid into the Konversionskasse by debtors in the Saar in respect of which the foreign creditors have not received foreign exchange payments or been otherwise satisfied;
- (b) the Federal Government agrees to assume liability for payment in the respective foreign currencies to the foreign creditors of 60 per cent. of the sums paid into the Konversionskasse by debtors in Austria, France, Belgium and Luxemburg in respect of which the foreign creditors have not received foreign exchange payments or been otherwise satisfied;
- (c) the Federal Government will negotiate with the foreign creditors' representatives before the end of December 1952 as regards the implementation of these undertakings.

ARTICLE 10

*Payments into the Deutsche Verrechnungskasse*

The negotiating parties have discussed the payments made by German debtors to the Deutsche Verrechnungskasse which were not paid out to the creditors.

In view of the variations in the terms of the contracts between Germany and other countries, which are not yet executed, the creditors and debtors are of the opinion that the questions which have not been clarified should be solved by Governmental negotiations between the Federal Republic of Germany and the States concerned.

## ARTICLE 11

### *Hardship Clause*

Where and in so far as the financial position of a debtor has been affected by war or the repercussions of war or other extraordinary conditions, to such an extent that the debtor cannot be expected to settle his obligations in accordance with the conditions and within the time-limits laid down in this settlement proposal, he should be granted relief. This shall be equitable and take into account the debtor's special circumstances. The relief shall be in accordance with the concessions which the debtor has been or may be granted by a German creditor on similar grounds under German Law, especially under the legislation for the Relief of Debtors (Vertragshilferecht).

Where the creditor and debtor do not reach agreement, the competent German Court shall make a decision. The creditor shall have the option of appealing against the decision of the Lower Court under the provisions of German Law, or, within a period of 30 days after notice of the Court decision has been served, of appealing to the Court of Arbitration constituted according to the provisions of Article 17. The decision of the Court of Arbitration shall be binding.

## ARTICLE 12

### *Succession to Claims and Debts by Operation of Law*

(1) Where a foreign creditor has acquired or shall hereafter acquire claims of another foreign creditor by legal succession on death, the claim shall be treated within the framework of this settlement proposal in the same manner as if the original creditor continued to be entitled to it. The same shall apply to similar cases of succession by operation of law.

(2) Any person who, by law or by a binding order, is under an obligation to take over the debt, or who has taken it over by contract, shall be liable for the debt as the successor of the debtor.

## ARTICLE 13

### *Change of Creditor*

(1) The creditor may assign to some other foreigner the total amount of his claim for which he may demand payment to a foreign country, provided that the assignment—

- (a) is made to a resident within the same currency area,
- (b) does not entail any modification of the terms underlying the claim,
- (c) does not result indirectly or directly in settlement of a claim.

The competent German authorities will give permission for the assignment if the conditions laid down in (a) to (c) are fulfilled. Over and above this, they shall give favourable consideration to well-founded applications by a foreign creditor for approval of an assignment of part of his claim.

By the acquisition of the claim the new creditor shall have the same rights and obligations as the original creditor. Should the new creditor demand from the debtor settlement of the claim in Deutsche Mark, the regulations for "original blocked accounts" shall apply to his blocked account after a period of three months has elapsed since the change of creditors occurred.

(2) As far as the assignment of claims is concerned for which the creditor can demand payment only in Deutsche Mark, the regulations concerning the use and assignment of such claims in force at the time in the territory of the Federal Republic of Germany and Berlin (West) shall be decisive (see Article 19).

ARTICLE 14

*Participation of Creditors and Debtors in the Debt Settlement, Foreign Currency Regulations, Debtor Obligations*

(1) Creditors and debtors desiring to settle a claim and obligation under the terms of this settlement proposal, must exchange written declarations to this effect. The creditor's declaration of participation may also be made through an agency established in the creditor country for the transmission of such declarations.

(2) The valid Exchange Control Regulations in Germany and abroad, taking into consideration the special facilities and assurances specified in this settlement proposal, shall apply to the relations between the creditor and debtor.

(3) Where the debtor refuses to make a declaration but the creditor declares himself bound to his own declaration of participation in relation to the debtor, the German Foreign Exchange Authorities shall at the request of the creditor issue to him within the limits of his declaration of participation any necessary foreign exchange licences.

Such foreign exchange licences shall enable the creditor to sue for and recover his claims against the debtor to the extent and in the manner provided in this settlement proposal for such claims.

In so far as the creditor has not obtained satisfaction by judicial execution, he may evoke his declaration of participation.

The issue of the foreign exchange licence shall not constitute a decision on the existence and amount of the claim.

(4) Should the creditor require payment in Deutsche Mark, he shall be obliged to make a written declaration to the debtor that he accepts such payment in settlement of his claim.

(5) Where the creditor is entitled to require, and requires, payment in a foreign country, the debtor shall be obliged to take all the steps necessary under valid German Foreign Exchange Control Regulations to procure the necessary instruments of payment in foreign currency.

ARTICLE 15

*Settlement of Disputes*

Except as otherwise expressly provided in this settlement proposal, any disputes between creditor and debtor as to the existence and the amount of any claims shall be decided by a Court of Law, or a Court of Arbitration agreed upon by the parties, which is competent in view of the legal relationship between the parties.

ARTICLE 16

*Mixed Commission*

A Mixed Commission, which shall be composed of an equal number of representatives of the creditor countries, on the one hand, and of the Federal Government, on the other hand, as well as of one Chairman, shall be set up to decide differences as to the interpretation of this settlement.

It is recommended that the Commission shall be competent to decide questions of fundamental importance for the interpretation of this settlement which are submitted to it by the Governments concerned.

Where a Government is of the opinion that a case, which is pending in the Court of Arbitration (Article 17), is of fundamental importance, it is recommended that the Government may require the Court of Arbitration to refer the case to the Mixed Commission. The Court of Arbitration should have the same right.

#### ARTICLE 17

##### *Court of Arbitration*

The Court of Arbitration referred to in Article 11 shall be composed of one arbitrator appointed by each of the parties. The two arbitrators shall elect a chairman. Should they not be able to agree on the person, they shall request the President of the International Chamber of Commerce to appoint him.

The arbitrators shall possess the qualifications required for holding judicial office in their respective countries; this shall not apply to the Chairman.

The Court of Arbitration shall decide upon its own procedure. It shall also decide which party shall bear the costs.

The German Delegation will advise the Federal Government to make provision that in cases where the parties are unable to make an advance of costs or bear the costs as fixed, the payment of such costs shall be adequately settled.

On the joint application of the parties, the Court of Arbitration may also decide in other disputes between creditors and debtors.

Detailed provisions relative to the Court of Arbitration proposed in this Article shall be agreed upon in the Governmental discussions for the implementation of the recommendations of the Conference on German External Debts.

#### ARTICLE 18

##### *Payment in Deutsche Mark*

Payment in Deutsche Mark according to this settlement shall be understood as meaning payment in German currency into an account held by a foreign creditor or opened in his name at his request with a financial institution in the territory of the Federal Republic of Germany or Berlin (West). The account shall be subject to the German Foreign Exchange Control Regulations from time to time in force.

This shall not exclude the issue of special licences for other forms of payment.

#### ARTICLE 19

##### *Utilisation of Blocked Deutsche Mark Accounts*

(1) The foreign creditor of an "original credit account" in German currency shall be permitted to utilise it within the framework of the legal provisions in force in the Federal Republic of Germany and Berlin (West) at the time this settlement comes into effect, including the right to assign such credits to another person outside Germany.

(2) The foreign creditor of an "acquired credit account" in German currency shall continue to be permitted to assign his credit to another person outside Germany.

The foreign creditor of such account shall continue to be permitted to utilise his credit mainly for long-term investments in the German economy.

(3) The competent German authorities shall draw up the regulations necessary to prevent the illegal disposal of credits in German currency and to preclude any other abuses detrimental to the German economy and to the creditors as a whole. Utilisations permitted by a general licence at the time this settlement comes into force may, in order to ensure proper control, be made dependent upon the issue of a separate licence without thereby restricting the general possibilities of utilisation.

(4) The competent German authorities will endeavour to provide facilities for the utilisation of blocked Deutsche Mark accounts to such an extent as the foreign exchange situation shall permit. They will aim at simplifying the licence procedure as much as possible.

(5) The Federal Government shall set up an Advisory Committee composed of an equal number of representatives of the main creditor countries, on the one hand, and of representatives of the Federal Republic, on the other hand, for the discussion of general matters in connection with the utilisation of blocked Deutsche Mark accounts.

ARTICLE 20

*Effect of the Settlement on Existing Claims*

In the absence of any contrary provision, this settlement shall not modify the claims dealt with therein.

ARTICLE 21

*Currency Option Clauses without a Gold Clause*

The decision as to the currency in which claims with currency option clauses (without a gold clause) shall be discharged, shall be reserved to inter-governmental arrangements.

ARTICLE 22

*Concessions in Favour of Debtors*

The creditors are of the opinion that the concessions granted under the terms of this settlement should accrue to the benefit of the debtors.

ARTICLE 23

*Effective Conversion*

(1) A change in the terms of the debt relationship between creditor and debtor shall be considered as an effective conversion, if it was made before 9th June, 1933, or if it occurred on or after 9th June, 1933, as a result of free negotiation or on account of the insolvency or threatened insolvency of the debtor.

(2) It shall be presumed that there is no effective conversion resulting from free negotiation if at the time of conversion the creditor was represented by the German Custodian of Enemy Property or by a similar person appointed by the German authorities without his consent.

(3) In the case of bonded claims, a conversion shall likewise not be considered an effective conversion if the creditor has merely accepted a unilateral offer made by the debtor.

(4) The burden shall be on the debtor to prove that the conversion was an effective conversion.

(5) In the case of Church loans, any conversion shall be considered effective.



ARTICLE 24

*Currency of Payment*

Provisions as to the currency in which monetary claims shall be discharged, are reserved to intergovernmental arrangements.

ARTICLE 25

*Validation Laws for German Bonds*

This settlement shall not apply to bonds and interest coupons which require to be validated under the German Validation Law for Bonds of 19th August, 1949 (Wirtschaftsgesetzbl., page 295) and the Validation Law for German External Bonds of August, 1952, until these bonds and interest coupons have been validated pursuant to the provisions of such laws or any agreement which may be concluded with the country of issue with regard to such laws.

**Section C.—Settlement of Old Commercial Claims (Article 1)**

ARTICLE 26

*Claims arising out of Supplies of Goods (Article 1 (1))*

(1) The creditor shall be entitled to demand payment to a foreign country as follows:—

- (a) in respect of one-third of the amount owed as from the beginning of the year 1953,
- (b) in respect of the remaining two-thirds of the amount owed in ten equal yearly instalments, starting on 1st January, 1954.

(2) The creditor may up to 31st December, 1953, demand that the debtor, instead of effecting payment to a foreign country as stipulated under (1) (b), shall, within three months after such request pay the balance of his claim (two-thirds of the original amount owed) in Deutsche Mark. It shall be left to the creditors and debtors in special circumstances to agree upon extension of the time limit for a further three months.

(3) After 31st December, 1953, payment of the balance of the claim in Deutsche Mark may be demanded only in agreement with the debtor.

ARTICLE 27

*Claims arising out of Prepayments for Supplies of Goods and Services (Article 1 (2))*

(1) Creditors and debtors should, where necessary, with the approval of their competent authorities, agree upon a settlement appropriate to the circumstances of the case.

(2) Should it not be possible to reach agreement, the creditor shall be entitled to ask the debtor for payment to a foreign country of the amount owed in ten equal yearly instalments, starting as from 1st October, 1953.

(3) The creditor may up to 31st December, 1953, demand that the debtor, instead of effecting payment to a foreign country as stipulated under (2), shall, within three months after such request, pay the total amount of the claim in Deutsche Mark. It shall be left to the creditors and debtors, in special circumstances, to agree upon extension of the time limit for a further three months.

(4) After 31st December, 1953, payment of the claim in Deutsche Mark may be demanded only in agreement with the debtor.

ARTICLE 28

*Wages, Salaries and Pensions based on Employment, Commission (Article 1 (7))*

(1) The creditor shall be entitled to demand from the debtor payment to a foreign country of the amount owed in five equal yearly instalments, starting on 1st January, 1953. On application by the claimant, or by a private or governmental organisation which the claimant has duly authorised to act on his behalf, to the competent German authorities this settlement may also include such amounts as, according to proof furnished, have been paid temporarily into an account with a financial institution located in the Federal territory or Berlin (West) by the claimant or by his employer to the claimant's credit.

It shall lie with the competent German authorities to give favourable consideration to the possibility of an early payment to a foreign country in cases of hardship.

(2) The creditor may, at any time, demand that the debtor shall, within three months after being so requested, pay, in Deutsche Mark, the balance of the claim which has not yet been transferred to a foreign country.

ARTICLE 29

*Services from Social Insurance (Article 1 (8))*

These services are already or may become the subject of bilateral agreements and negotiations. It is recommended that the arrears of such payments be incorporated into these agreements.

ARTICLE 30

*Claims arising out of Private Insurance Business (Article 1 (9))*

(1) Claims and debts of either Party arising out of insurance or reinsurance contracts or agreements of any kind, or in connection with such contracts or agreements, may be the subject of bilateral arrangements.

Such claims and debts may be settled only in accordance with the relevant bilateral arrangements.

(2) Where no such bilateral arrangements for direct insurance exist or have been concluded by 31st March, 1953, claims of foreign insurance holders against insurance companies in the Federal Republic of Germany and Berlin (West) shall be settled pursuant to the following provisions:—

(a) Claims arising out of life insurance contracts pursuant to the provisions of Articles 33 and 34.

(b) Claims arising out of damage, accident or third party insurance contracts :

(aa) where the insurance contract was concluded for the safeguarding of assets in the Federal Republic of Germany or Berlin (West), payment shall be effected in Deutsche Mark pursuant to the Foreign Exchange Regulations in force in the Federal Republic of Germany and Berlin (West);

(bb) all other such claims shall be settled pursuant to the provisions of Article 31.

(c) Claims arising out of all types of insurance contracts for payments of pensions pursuant to the provisions of Article 28.

Details of the provisions under Paragraph (2) shall be laid down in the Intergovernmental Agreement.

#### ARTICLE 31

##### *Other old Commercial Claims (Article 1, (3), (4), (5) and (6))*

(1) The creditor shall be entitled to demand from the debtor payment to a foreign country of the amount owed in ten equal yearly instalments, starting on 1st July, 1953.

(2) The creditor may, up to 31st December, 1953, demand that the debtor, instead of effecting payment to a foreign country as stipulated under (1) above, shall, within three months after such request pay the amount owed in Deutsche Mark. It is left to the creditors and debtors, in special circumstances, to agree upon extension of the time limit for a further three months.

(3) After the 31st December, 1953, the creditor may demand payment of his claim in Deutsche Mark only in agreement with the debtor.

(4) In certain special cases the creditor and debtor may agree upon settlement in some other form, subject to approval by the competent authorities.

#### ARTICLE 32

##### *Joint Provisions for Old Commercial Debts (Article 1, (1) to (9))*

###### *(1) Arrears of Interest*

Where interest is owing on a claim, the following interest rates, without allowing for compound interest, shall apply for the computation of the arrears of interest owed up to 31st December, 1952:—

(a) where the annual interest rate has heretofore been 4 per cent. or less, the interest rate shall remain the same as before;

(b) where the annual interest rate has heretofore been more than 4 per cent., this shall be reduced to  $\frac{3}{4}$  but not less than 4 per cent. per annum.

The reduced amount of interest arrears shall be added to the principal.

###### *(2) Future Interest*

No interest shall be due for the period from 1st January, 1953, to 31st December, 1957.

Where interest was due for the period up to 1st January, 1953, the amount of the claims for the time being outstanding on or after 1st January, 1958, shall bear interest. The rate of interest shall represent 75 per cent. of the due rate.

The new rate of interest shall, however, be not less than 4 per cent. nor more than 6 per cent. per annum. Where heretofore a rate of interest of 4 per cent. per annum or less was due, this rate shall remain. The interest shall be paid at the end of each year in non-German currency together with the amortisation amount.

**(3) Special Deposit**

(a) As far as claims of groups in Article 1, (1) to (7), are concerned the creditor may, instead of specifying payment in accordance with Article 26, 27, 28 or 31, require the debtor to effect payment into a Deutsche Mark Deposit Account maintained in his name with an agency to be designated by the competent German authorities, if his claim is proved to be jeopardised.

Should the debtor in respect of such a request invoke the hardship clause (see Article 11), the demand of the creditor for a deposit shall take effect only when the invocation of the hardship clause by the debtor has been finally rejected.

(b) The debtor may pay the amount of a debt covered by the categories specified by paragraph (a) into such a deposit in favour of the creditor, provided he can furnish proof that—

(aa) he (the debtor) is the heir or executor of the original debtor and the estate is due to be apportioned;

(bb) he (the debtor) is a company going into liquidation;

(cc) the receiver or the composition administrator of the debtor is paying out dividends on bankruptcy or composition settlements.

(c) Payment into a deposit account in accordance with the above-mentioned provisions shall discharge the debtor from his debt. In this case, the creditor shall, in respect of payment to a foreign country, be accorded the same treatment as if the amount on deposit (including interest, if the deposit agency pays interest) were in the hands of the debtor.

(d) The creditor shall have the right, at any time, to demand transfer of an amount paid into a special deposit account to his Deutsche Mark account (Article 18).

**(4) Small Claims**

In cases of claims for small amounts, the competent German authorities shall give favourable consideration to applications of interested parties for approval of an early payment to a foreign country.

**(5) Payments for Supplies of Goods and Services where the Creditor can furnish proof that the payment into his account was effected without his consent**

A creditor who furnishes proof that a payment in respect of goods and services to his bank account or Postscheckkonto (Article 1) was effected without his consent shall, by payment into such an account, not forgo his right of having the payment dealt with under Section C.

**Section D.—Settlement of Claims arising out of Private Financial Transactions (Article 2)****ARTICLE 33**

Claims in German currency arising out of financial transactions, including such claims as are expressed in Goldmark or Reichsmark with a gold clause and are not of a specific foreign character (Article 6), may continue to be discharged under the agreed contractual interest and amortisation terms, pursuant to the foreign exchange regulations in force at the time of payment in the Federal Republic of Germany and Berlin (West). According to the regulations at present valid, payment may be made only in Deutsche Mark.

## ARTICLE 34

Claims expressed in a foreign currency, arising out of financial transactions, and those expressed in Goldmark or Reichsmark with a gold clause but which are of a specific foreign character (Article 6) shall be settled as follows:—

- (1) Where the debtor has effected payments to the "Konversionskasse für deutsche Auslandsschulden," the amounts of unpaid principal and interest shall be determined in accordance with the provisions of Article 9.
- (2) Where interest is owing, the following interest rates without allowing for compound interest shall be applicable for the computation of the arrears of interest owing up to 31st December, 1952:—
  - (a) where the annual interest rate has heretofore been 4 per cent. or less, the interest rate shall remain the same as before;
  - (b) where the annual interest rate has heretofore been more than 4 per cent., this shall be reduced to  $\frac{3}{4}$  but not to less than 4 per cent. per annum.

- (3) The amount of arrears of interest computed in accordance with paras. (1) and (2) shall be added to the undischarged claim. The resulting new principal shall bear interest as from 1st January, 1953, at a rate which shall represent 75 per cent. of the interest rate in force at the time this settlement comes into effect. The new interest rate shall, however, be

- (a) in the case of bonded claims, at least 4 per cent. and at the most  $5\frac{1}{4}$  per cent. per annum,
- (b) in the case of other claims, at least 4 per cent. and at the most 6 per cent. per annum.

Where an interest rate of 4 per cent. or less has been owed heretofore, this rate shall remain the same.

The interest shall be payable to a foreign country at least semi-annually.

- (4) In the case of any claims which have been the subject of an effective conversion that rate of interest agreed upon in the effective conversion shall form the basis for the computation of any reduction pursuant to paras. (2) and (3).

Interest reductions on which there is a time-limit shall be taken into consideration only for the period for which they were arranged.

- (5) In the case of any claims which have been the object of a non-effective conversion, that rate of interest which would have been valid without this conversion shall form the basis for the computation of any reductions pursuant to paras. (2) and (3).
- (6) The new principal shall be discharged as from 1st January, 1958, by payment to a foreign country as follows:—

- (a) during the first five years (1st January, 1958, to 31st December, 1962) at 3 per cent. per annum;
- (b) during the next five years (1st January, 1963, to 31st December, 1967) at 8 per cent. per annum;
- (c) during the subsequent three years (1st January, 1968, to 31st December, 1970) at 15 per cent. per annum.

Interest shall be computed on the principal outstanding from time to time.

- (7) The creditor may demand up to 30th June, 1953, that arrears of interest computed in accordance with paras. (2) and (4) shall not be added

to the principal according to para. (3) but shall be discharged by payment in Deutsche Mark. The debtor shall effect payment within six months after such request.

- (8) Where small amounts are involved, the parties concerned may, in special cases, agree upon different terms of repayment with the approval of the competent German authorities.
- (9) Creditors and debtors may, in accordance with the Foreign Exchange Regulations in force in the Federal Republic of Germany and Berlin (West), agree upon payment of the claim or part thereof in Deutsche Mark.
- (10) The competent German authorities reserve, in cases of hardship, the right of giving favourable consideration to applications by the parties concerned for the approval of different terms of repayment.
- (11) Foreign creditors of claims listed in Article 2, para. (2) (b), may ask for payment in Deutsche Mark of the interest due up to 31st December, 1952, without the reduction proposed in paragraph (2) of this Article, provided they accept such payment as discharge of their claim.
- (12) If necessary, the principles laid down in Annex II to the Agreement on German External Debts may be adopted to supplement these rules for the settlement of claims arising out of bonds and interest coupons covered by this settlement proposal.

**Section E.—Arrears of Income from Investments (Article 3)**

**ARTICLE 35**

Payments shall be made in Deutsche Mark pursuant to the foreign exchange regulations in force in the Federal Republic of Germany and Berlin (West).

**Section F.—Other Monetary Claims (Article 4)**

**ARTICLE 36**

These claims shall be settled pursuant to the provisions for the category of claims to which they either belong or, by their character, are most similar. In cases of doubt, the same practice shall apply as in the Payment Agreements.

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**SUB-ANNEX TO ANNEX IV**

[Note: *The text reproduced hereunder is the text of Annex A to Appendix 6 to the Report of the Conference on German External Debts.*]

**Joint Statement by the German and Swiss Delegations concerning the Negotiations on the Settlement of the Swiss Franc Land Charges. (Schweizer Frankengrundsschulden)**

Discussions were held at Freiburg i.B. on 10th–11th June, 1952, in implementation of the statement made on 20th March, 1952, by the creditor and debtor representatives—for the attention of the London Debt Conference. These negotiations could not, however, be brought to a conclusion. The London Conference was informed of this by a statement on 11th June, 1952.

Owing to various circumstances it has so far proved impossible to continue

the negotiations. The parties will, however, resume the discussions, in consultation with the "Vertrauensstelle," at the earliest possible date. The German Delegation will inform the London Conference of their results in good time before the signing of the general Governmental Agreement on the settlement of German External Debts.

The Swiss side refers again to the exposé on the Swiss Franc land charges which was submitted to the Conference subsequent to the statements made by the Swiss Delegation in the Second Plenary Meeting on 29th February, 1952, and distributed under Ref. No. GD/V/Negotiating Committee D/Doc. 3 of 13th March, 1952. The Swiss side reserves the right, therefore, of making a further statement, dependent upon the results of the bilateral negotiations.

On the other hand, the German side is of the opinion that the Swiss Franc land charges fall under the terms of reference of the London Conference for the Settlement of German External Debts and that they are to be settled in accordance with the principles laid down by Negotiating Committee D.

Both sides agree that a Court of Arbitration, which is to be set up within the scope of the settlement of the debts dealt with in Negotiating Committee D, shall not be competent to deal with the Swiss Franc land charges but that the cases arising shall be submitted to the "Vertrauensstelle" set up pursuant to the German-Swiss Agreements.

*London, 25th July, 1952.*

PAUL LEVERKUEHN.

KOENIG.

ANNEX V

**Agreed Recommendations for the Treatment of Payments made to the Konversionskasse**

[Note: *The text reproduced hereunder is the text of Appendix 7 to the Report of the Conference on German External Debts.*]

I. The German Delegation was of the opinion that the German debtor was definitively discharged of his debt to the extent of his payments into the Konversionskasse. The creditor representatives, on the other hand, were of the opinion that as a rule such payments into the Konversionskasse would not be recognised as discharging the German debtors under the laws of their respective countries.

In their desire to put an end to fruitless legal discussions, both sides agreed to seek a practical solution which would permit settlement of the claims of the creditors without unnecessary formalities.

Accordingly, the German Delegation and the foreign creditor representatives while reserving their respective legal positions, have agreed as follows:—

- (1) The German debtor undertakes to settle the creditor's claim in accordance with the new settlement terms, regardless of the payments made to the Konversionskasse, to the extent that the creditor—
  - (a) has not in fact received from the Konversionskasse the payment corresponding to that made by the debtor to it, or
  - (b) refused to accept a payment or performance from the Konversionskasse based on a payment made by the debtor, on the ground that he (the creditor) was unwilling to recognise such payment or performance as discharging the debt.

In the case of securities subject to the validation law for German Foreign Currency Bonds, the arrangement set out above shall apply only to such Bonds and Coupons as shall have been validated pursuant to the provisions of such law and of any agreement entered into with the country of issue respecting the application of such law, or with respect to the declaratory decrees (Feststellungsbescheide) which the creditor shall receive pursuant to the said law.

- (2) The amounts so paid by the debtors shall be reimbursed to them out of German public funds.
- (3) Payments made by the debtor into the Konversionskasse which do not fall within the provisions of sub-paragraph (1) shall be considered as discharging the debt to the extent of such payments.

II. Subject to the general provisions contained in paragraph I above:—

- (a) the Federal Government agrees to assume liability for full payment in the due currencies to the foreign creditors of the sums paid into the Konversionskasse by debtors in the Saar, in respect of which the foreign creditors have not received foreign exchange payments or been otherwise satisfied;
- (b) the Federal Government agrees to assume liability for payment in the due currencies to the foreign creditors of 60 per cent. of the sums paid into the Konversionskasse by debtors in Austria, France, Belgium and Luxembourg in respect of which the foreign creditors have not received foreign exchange payments or been otherwise satisfied; and
- (c) the Federal Government will negotiate with the foreign creditors' representatives before the end of December, 1952 as regards the implementation of these undertakings.



## ANNEX VI

[Note: *The text reproduced hereunder is the text of Appendix 8 to the Report of the Conference on German External Debts.*]

### **Agreed Recommendations for the Utilisation of Blocked Deutsche Mark Accounts**

The following detailed arrangements have been agreed upon for the utilisation of blocked Deutsche Mark accounts:—

(1) The foreign creditor of an "original credit account" in German currency shall be permitted to utilise it within the framework of the regulations in force in the German Federal Republic and Berlin (West) at the date on which this settlement comes into effect, including the right to assign such accounts to another person outside Germany.

(2) The foreign creditor of an "acquired credit account" in German currency shall continue to be permitted to assign his account to another person outside Germany.

The foreign creditor of such account shall continue to be permitted to utilise his account mainly for long-term investments in the German economy.

(3) The competent German authorities shall draw up and issue the regulations necessary to prevent the illegal disposal of accounts in German currency and to preclude any other abuses detrimental to the German economy and to the creditors as a whole. Utilisations permitted by a general licence at the time this settlement comes into force may, in order to ensure proper control, be made dependent upon the issue of a special licence without thereby restricting the general possibilities of utilisation.

(4) The competent German authorities will endeavour to provide facilities for the utilisation of blocked Deutsche Mark accounts to such an extent as the foreign exchange situation shall permit. They will aim at simplifying the licence procedure as much as possible.

(5) The German Government shall set up an Advisory Committee composed of an equal number of representatives of the main creditor countries, on the one hand, and of representatives of the German Federal Republic, on the other, for the discussion of general matters in connection with the utilisation of blocked Deutsche Mark accounts.

ANNEX VII

**Agreement on Goldmark Liabilities and Reichsmark Liabilities with a Gold Clause, having a specific foreign character**

German Delegation  
for External Debts.  
243-18 Del. 39-2177/52.

To the  
Chairman of the  
Tripartite Commission on German Debts,  
29 Chesham Place,  
London, S.W. 1.

*London, S.W. 1.*

Mr. Chairman,

*21st November, 1952.*

The negotiations provided for in Article V, paragraph 3, of Appendix 4 and in Article 6 of Appendix 6 to the Final Report of the London Debt Conference and referred to in the joint letter from Sir Otto Niemeyer and Herr Hermann J. Abs to the Tripartite Commission on German Debts, the purpose of which was to define the criteria constituting the specific foreign character of Goldmark liabilities and of Reichsmark liabilities with a gold clause or a gold option, took place in London from 21st October to 21st November, 1952, between the German Delegation for External Debts and a delegation of British, American, Swiss and Netherlands creditor representatives.

We are glad to be able to inform you that these negotiations resulted on 21st November, 1952, in an understanding which was recorded in an Agreement signed to-day. The Chairman of the two Delegations, in signing this Agreement, exchanged four letters dated 21st November, 1952, designed to clarify various questions in connexion with the Agreement, as follows:—

1. Exchange of letters concerning the transfer of amounts due for payment on Goldmark claims with a specific foreign character.
2. Exchange of letters concerning the interpretation of the provision on a "trusteeship contract".
3. Exchange of letters concerning a question of interpretation in connexion with the 40th Executory Ordinance to the Currency Conversion Law.
4. Exchange of letters concerning a reservation by the creditors with respect to the conversion of claims against secondary debtors and the possibility of the withdrawal of this reservation.

We have the honour to submit to you one copy of the text of the Agreement in the German and English languages and of the four exchanges of letters, also in the German and English languages, with the request that you should approve them as soon as possible. We should be grateful if the

Agreement and also the four exchanges of letters could be appended as sub-Annexes to Annexes I, II and IV of the Debt Agreement.

Please accept, Mr. Chairman, the expression of our highest esteem.

HERMANN J. ABS,  
Head of the German Delegation  
for External Debts.

N. LEGGETT,  
Chairman of Negotiating Committee B  
at the Conference  
on German External Debts.

Note—

1. *It was agreed by the signatories to the above letter that these documents should become Annex VII to the Agreement on German External Debts and not sub-Annexes to Annexes I, II and IV of that Agreement, as requested in the final paragraph above.*
2. *The exchanges of letters referred to in the final paragraph above have now been summarised and are attached as the Sub-Annex to Annex VII.*

**Agreement on Goldmark Liabilities and Reichsmark Liabilities with a Gold Clause, having a specific foreign character**

*London, 21st November, 1952.*

By virtue of the reservations made in Article V, paragraph 3, of Appendix 4, and in Article 6 of Appendix 6 of the Final Report of the London Debt Conference, and of the joint letter addressed by the Head of the German Delegation, Herr Hermann J. Abs, and Sir Otto Niemeyer to the Tripartite Commission on German Debts, dated 19th November, 1952, on the subject of Goldmark loans of German municipalities, it is agreed as follows :—

I.—In respect of the claims and rights specified below it is recognised that they have a specific foreign character within the meaning of the above-mentioned provisions.

1. Claims expressed in Goldmarks or in Reichsmarks with a gold clause or a gold option arising out of bonds made out by German debtors and issued or placed abroad, if—
  - (a) they constitute a loan, the conditions of which show that it was intended for investment, sale or negotiation in foreign countries only. Where the interest on any bond has been exempt from taxation of capital yield, the bond shall be considered as forming part of a loan which was intended for investment, sale or negotiation in foreign countries only;
  - (b) they are payable in foreign countries only under the terms of the bonds.

Any part of a loan which differs from the other parts of the loan in respect of special designation or special treatment in Germany as regards taxation or quotation shall likewise be considered as a loan within the meaning of (a) or (b) above, except where the bonds belonging to such

part of a loan were officially quoted on a German Stock Exchange before 1st September, 1939.

2. Claims expressed in Goldmarks, or in Reichsmarks with a gold clause or a gold option, arising from other loans or advances resulting from financial transactions and raised abroad by German debtors, including claims of this kind secured by mortgage charges; if
  - (a) it was expressly agreed under the original written debt arrangements that the place of payment or the competent court is situated abroad or foreign law is applicable; and if
  - (b) whenever the debt was incurred after 31st July, 1931, the equivalent was made available in foreign currency, free Reichsmarks or gold, or originates in a blocked Reichsmark account to which repayments on a Goldmark or foreign currency loan from a foreign country granted before 31st July, 1931, had been credited provided that the foreign creditor has again loaned out the amounts withdrawn from the blocked Reichsmark account, with the consent of the competent German Foreign Exchange Control Authorities, to some other German debtor, stipulating a gold clause or gold option Clause for such renewed loan.

A loan or advance shall likewise be deemed to have been raised in a foreign country if the debtor was aware, when the indebtedness was incurred, that the German creditor, by virtue of a trusteeship contract, was merely the trustee of a foreign lender. A loan or advance raised from the foreign trustee of a German lender shall not be deemed to have been raised in a foreign country.

II.—The claims and rights mentioned under I do not include claims of foreign credit institutions and insurance enterprises which under German Law are required to prepare a conversion sheet, provided the claims have to figure as assets on the conversion sheet.

(<sup>1</sup>)III.—In the case of real estate liens (mortgages, land charges and terminable annuities), which on 20th June, 1948, had been entered for the purpose of securing the personal claims of a foreign creditor specified in such agreement, the original conversion shall, subject to the provisions set out hereinafter, continue to apply as carried out in accordance with the Conversion Law, including the 40th Executory Ordinance issued thereto. In those cases where any such real estate lien has, in accordance with these prescriptions, been converted at a rate other than 1 : 1, the security in favour of the creditor in the form of real estate lien of the same nominal amount as the real estate lien in his favour on the 20th June, 1948, less any subsequent reductions thereof, will be re-established in equal rank in so far as this is possible without interference with any real property rights which a third party may have acquired during the period between the 21st June, 1948, and 15th July, 1952. To the extent that third parties may have acquired such rights during the said period, the following rules shall apply, it being agreed that they will in detail be established by German legislation :—

- (a) Where the real property has changed ownership, the security in favour of the creditor, in the form of a real estate lien, which is lacking will be re-established only to the extent that a public charge in respect of the levy on mortgage profits (Hypothekengewinnabgabe) is or will be reduced.

(<sup>1</sup>) The text of this paragraph was agreed between the parties concerned on 12th February, 1953.