

Declassified E.O. 12356 Section 3.3/NND No. 785015

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Declassified E.O. 12356 Section 3.3/NND No. 785015

TRADING WITH ENEMY & TREATMENT  
OF ENEMY PROPERTY  
MAR. - JUNE 1942; DEC. 1942;  
FEB. - MAY 1943

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Declassified E.O. 12356 Section 3.3/NND No. 785015

*Access granted  
on all classified  
documents*

- 1A W.O. (F.1) 14.3.42 Treatment of enemy property in O.T.A.
- 2A 25 Feb 43 Copy of letter from H.S. Gregory to E. Rowe-Dutton
- 3A H.M. Treasury 22 Mar 43 Copy of letter from E. Rowe-Dutton to H.S. Gregory.
- 4A 3164/442/49 Copy. Draft memo - Cargoes of captured ships.
- 5A W.1687/442/49 Draft memo - capture of ships under enemy control
- 6A W.O. (F.5) 1 Apr. 43 Modifications to memo (0184/15-14.3.42) treatment of enemy property
- 7A W.O. (F.1) 14.3.42 Treatment of enemy property in O.T.A.
- 8A 141F/807/CA 23 Apr. 43 To Q (Maint)
- 9A 461 9 May from Dundas.

Declassified E.O. 12356 Section 3.3/NND No. 785015

3900

EQUALS BRITISH MOST SECRET  
**SECRET**  
WAR DEPARTMENT  
CLASSIFIED MESSAGE CENTER  
**AFHQ**  
**OUTGOING MESSAGE**

9A

7807

CA action

TA

RIGOR

TO: TFOOTERS

NO: T 61

|                  |
|------------------|
| HEADQUARTERS     |
| DATE: 9 MAY 1943 |
| N: 7807          |
| FORCE 141        |

For speed from DUNLOP.

1. Reference heading to F1 notes 14th March on treatment enemy property is procedure in notes and F5 summary of subsequent modifications of 1st April authorised.

2. For privately owned premises is intention that payment shall be made to avoid economic hardship when whole premises taken over and inmate or business has to move elsewhere but that no payment shall be made where billeting does not involve removal of occupant. Non-payment in such cases may have political consequences and is affected by attitude it is desired to adopt to population.

3. RENNEIL has seen telegram.

ORIGINATOR: CAO

AUTHENTICATION: NONE

INFORMATION: S/GS  
DTC  
Fin Adv  
Cinc Med  
ACCinc Med  
USN  
G-3 (Plans)  
Force 141  
AG Records

P. See 9A  
JH: 9/5/43

This copy only MAY BE SHOWN to duly  
accredited unofficial researchers Order  
Sec/Army by TAG/ \_\_\_\_\_ date \_\_\_\_\_

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MC-OUT-219

8 MAY 43

1210A

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EQUALS BRITISH MOST SECRET  
**SECRET**

3987  
COPY No.

785015

SUBJECT: Treatment of Enemy Property in CTA

1001 SECRET

141E/7007/C

23 Apr 45

Q(aint)

Herewith three copies each of a memorandum on above and of a note on subsequent modifications of the same paper.

The papers which may be useful in connection with the projected meeting on Monday next should be read subject to the Headnote on the memorandum.

It will also be borne in mind that the papers were prepared in connection with wholly British occupied Territory.

We confirm that we should like Brig. Stanton, <sup>ham</sup> D.P.I.C. to be invited to the meeting.

Hq 141 Force.

*D2*  
Lt. Col.  
for Major General,  
Civil Affairs.

3900

(80)

SUBJECT: ANY OF SUBSISTENT REQUISITIONING OF PROPERTY OF  
THE ARMY OF WESTERN AUSTRALIA (9134/13, 14/2/42).

1. Heavy machinery, structural steel and building materials even when bona fide private property should be treated as munitions of war under M.P.L. 415 (W.O. to W.E. and E.A. 8005 - 2.4.42).
2. No payment should be made for requisitioned private enemy property, even when owners are present unless essential to avoid economic disturbances or political unrest, which was sole reason for authorizing payment (W.O. to W.E. 81850 - 12.4.42).
3. Privately owned motor vehicles are regarded as susceptible of direct military use and thus fall under para. 415 W.O., and Para. 1(a) Section One of Memorandum 9184/13; Payment may, however be made for them and other property susceptible of direct military use if essential to avoid economic disturbances or political unrest in the same way as requisitioned property. (W.O. to W.E. 91857 - 5.4.42.)
4. All property classified as susceptible of direct military use should be treated accordingly. The ultimate use to which the material may be put is immaterial (W.O. to W.E. and E.A. 98014 - 27.6.42)
5. "Needs of Army of Occupation" should mean "Needs of the Army of the Occupying power wherever located" and not be confined to that part of the Army located in the territory concerned. (W.O. to W.E. and E.A. 98014 - 27.6.42.)
6. If property can be moved it should be regarded as movable. (W.O. to W.E. and E.A. 98014 - 27.6.42).
7. Where it has been decided that immediate payment is necessary for seized or requisitioned goods, reasonable prices should be paid (W.O. to W.E. 97225 - 24.6.42).

War Office (P.5)  
 1st April, 1943.

The following has been approved for certain occupied enemy territories in Africa only. Specific authority must be obtained before any departure from the Manual of Military Law is made in any other territory.

# THE MANUAL OF MILITARY LAW IN O.T.

(References are to Land War Regulations).

SECTION ONE: Groups by which can be classified clearly as either public or private.

I. Private Movable Property. This may be divided into two classes:-

(a) Unmovable Property. It is permissible to seize such property without making immediate payment. The articles are required to be returned at the conclusion of peace, or an indemnity must be paid for them. The party responsible for paying the indemnity will be named in the peace settlement (Art. 53, Para. 2). This procedure will be followed, and such articles as structural steel, heavy machinery, and building materials will be included under this heading. (C.O. telegram No. 75659(T.4.)). As far as possible records will be maintained so that the owners will be in a position to claim indemnity in due course.

(b) Movable Property. Property not susceptible of direct military use. According to law this may be requisitioned by the Army of Occupation and payment should be made as soon as possible. (Art. 52). Payment will be made both retrospectively and in future where owners are still present. (C.O. telegram No. 75659(T.4.)). Where an owner is not present the Custodian will record a charge against the Army, on behalf of the absent owner, but no cash payment will be made by the Army.

II. Private Immovable Property. This may be requisitioned and made use of, and neither rent nor compensation may be claimed. It is agreed that rent will be paid to owners who are still present in the territory, in order to avoid hardship. (C.O. telegram No. 65142 of 5/5). Where an owner is not present the Custodian will keep records of the property so taken over, in order that the owner may be in a position to claim compensation at the close of hostilities in the event of funds being made available.

III. The decision to make payment to owners who are present (I-b and II) may be understood to include payment to the wives and families of absent owners where this appears to be justified by the circumstances.

IV. Such property may belong to a company, firm or all of the shareholders being absent from the territory. Local discretion is granted to make payments, even where no payment can be claimed, (either in full or in part, in which case the balance due would be recorded) where circumstances make it advisable, O.C. where the business cannot continue to operate. Where the

(b) Property not susceptible of direct military use. According to law this may be requisitioned by the Army of Occupation and payment should be made as soon as possible. (Art. 52). Payment will be made both retroactively and in future where owners are still present. (I.O. telegram No. 75559(F.1.) There are cases where the Custodian will receive a directive against the army, on behalf of the absent owner, but no cash payment will be made by the army.

II. Private Immovable Property. This may be requisitioned and also use of, but neither rent nor compensation may be claimed. It is agreed that rent will be paid to owners who are still present in the territory, in order to avoid hardship. (I.O. telegram No. 65422 of 5/5). Where an owner is not present the Custodian will keep records of the property so taken over, in order that the owner may be in a position to claim compensation at the close of hostilities in the event of funds being made available.

III. The decision to make payment to owners who are present (I-b and II) may be understood to include payment to the wives and families of absent owners where this appears to be justified by the circumstances.

IV. Such property may belong to a company, such as all of the shareholders being absent from the territory. Local discretion is granted to make payments, even where no payment can be claimed, (either in full or in part, in which case the balance due would be recorded) where circumstances make it advisable, e.g. where no business cannot otherwise continue to operate. Where the business in question is operated by the Custodian, in the place of the absent owner, no payment will be made, but records will be kept for future possible settlement.

V. Public Movable Property. Such as cash, stores, rolling stock, etc. This may be seized, and no payment need be made. (Art. 53). This procedure will be followed.

VI. Public Immovable Property.

(a) Of a military character (forts, dockyards, etc.) is absolutely in the hands of the occupant for the duration of the war.

(b) Of a non-military character (public buildings, farms, mines) may be used by the occupant, but only as usufructuary. (Art. 55)

This procedure will be followed, and no payment will be made in respect of such property.

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SECTION TWO: Property which cannot be classified clearly as public or private.

I. Where there is any doubt whether certain property is public or private, as may frequently occur in the case of stores and supplies obtained from contractors, it should be considered to be public property unless and until its private character is distinctly proved.

II. Parastatal Institutions, General. The term "parastatal" has been found to be misleading, as it covers not only State concerns but those which are partly state and partly private concerns. It is not possible at this stage to classify them accurately, except in a very few cases, nor to determine the extent of private interests where they are known to exist.

In view that suitable records may be maintained against the time when it is possible to ascertain ownership and consider claims from private persons, all such institutions will be placed in the hands of the Custodian of Enemy Property, whether any interested parties are present in the territory or not. (A.O. telegram No. 75653(2.1.)).

### III. Parastatal Businesses.

(a) Where the business continues to operate.

Where it is desirable that such a business should function for the benefit of the Army or of the territory, the not sums payable to or due from C.I.E. under the agreement made with the concern appointed to run the business, will be put through the accounts of the Custodian, who will be responsible for maintaining such records of the property concerned as will enable subsequent claims to be considered and for recording any net advances and net deficits accruing. The method of running the business will be decided by the competent authority locally, who will seek advice from the War Office if necessary.

In the event of profits arising he will only pay out money to private persons if their claim to an interest is beyond doubt, if they are resident in the territory, and if the income is necessary to them in order to prevent hardship. This privilege may be extended to the wives and families of absent owners at discretion.

Where the Army or C.I.E. make use of such a business (by purchasing its products, etc.) a charge will be recorded on a minimum basis only and in no case shall an actual cash payment be made.

In order that suitable records may be maintained against the time when it is possible to ascertain ownership and consider claims from private persons, all such institutions will be placed in the hands of the Custodian of Enemy Property, whether any interested parties are present in the territory or not. (A.O. telegram No. 75659(F.1.)).

### III. Parastatal Businesses.

(a) Where the business continues to operate.

Where it is desirable that such a business should function for the benefit of the Army or of the territory, the net sums payable to or due from O.T.A. under the agreement made with the concern appointed to run the business, will be put through the accounts of the Custodian, who will be responsible for maintaining such records of the property concerned as will enable subsequent claims to be considered and for rendering any net balances and net deficits accruing. The method of running the businesses will be decided by the competent authority locally, who will seek advice from the War Office if necessary.

In the event of profits accruing he will duly pay out money to private persons if their claim to an interest is beyond doubt, if they are resident in the territory, and if the income is necessary to them in order to prevent hardship. This privilege may be extended to the wives and families of absent owners at discretion.

Where the Army or O.T.A. make use of such a business (by purchasing its products, etc.) a charge will be recorded on a minimum basis only, and in no case will any actual cash payment be made.

If as a result of this procedure the business is short of the funds it needs in order to operate an advance will have to be made to it by the Custodian, who will in turn obtain funds for this purpose from the O.T.A. if necessary.

The Custodian, who will have a credit account with the O.T.A. will not hold a reserve of cash, but will only retain enough for his current cash requirements.

(b) Where the business ceases to operate.

Where the business is not required to operate for the benefit of the Army or of the territory, the Custodian will either liquidate it and take charge of the assets, or allow it to continue on a care and maintenance basis, whichever course he considers better.

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IV. Movable Property of a Parastatal Business.

Such property will be treated as though it were State property, and therefore liable to seizure by the Army, without payment, but the Custodian will maintain records of any property so taken over in order that in the event of subsequent claims by private persons being proved, it will be possible to settle them.

There will be co-operation between the Army and C.T.A. to ensure that the property of a business in operation will not be requisitioned if such a course would interfere with the running of the business.

Local discretion is granted to make payments, under the conditions outlined in III(a) above, to private owners.

V. Immovable Property of a Parastatal Business.

All such property will be treated as though it were State property and therefore liable to be used by the Army if necessary.

There will be co-operation between the Army and C.T.A. as in IV above.

Local discretion is granted to pay rentals to private persons as in III(a) above.

NOTE: Where damage is done to private movable or immovable property in the course of military operations or on the orders of our own forces, in pursuance of the "searched earth" policy, care should be taken to avoid any promise of compensation to the owners. The answer to any enquiries from private owners must be that the question of compensation cannot be decided until after the conclusion of the War.

Major General Lord Rennell

1. Copy of letter addressed to  
Rennell. Home 5/12/42, 5 enclosure.
2. Summary of rulings given  
in various W.O. telegram's,  
on points arising out of the  
W.O. Memo. on treatment  
of enemy property.

F.S.  
31/3/43

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0184/13 (F.5.)

AIR MAIL

The War Office,

LONDON. S.W.1.

SECRET

5th December, 1942.

Dear Home,

1. During your recent visit we discussed the War Office memorandum on the treatment of enemy property (0184/13 dated 14th March, 1942.). You expressed yourself as satisfied with this as a working basis except as regards the treatment of private movable property, and you submitted a memorandum explaining the difficulties experienced by your officers in classifying such property owing to the fact that paragraphs 415 and 416 of the Manual of Military Law cannot be clearly interpreted.

2. We do realise, as you point out, that there are two phases of an occupation; one when hostilities are still in progress, and a second when operations are concluded and a military administration is endeavouring to restore the territory to a state of order and stability.

3. In the second phase we recognise that whatever may be our legal rights it may be desirable and necessary to pay for almost all types of private movable property for the simple reason that not to do so would create a strong grievance against our administration, thus giving rise to political unrest, which might easily necessitate the retention of a larger garrison than would otherwise be necessary.

4. It is, therefore, our desire to devise some means of getting over this difficulty when necessary and we have considered very carefully the solution you proposed, i.e., that property of a consumable nature should be governed by paragraph 416, and property of a non-consumable nature should be governed by paragraph 415. Such a ruling would, we feel, be in the nature of a departure from the Manual of Military Law and although it might provide a way out of your particular difficulty if we could arrive at a satisfactory definition of "consumable" and "non-consumable" it would bind us in our standing to the full on our rights of conquest. We could not agree that the policy which is suitable for Eritrea should be adopted in every occupied enemy territory as a matter of principle. We should, therefore, much prefer to deal with the matter in each particular territory from the point of view of what is practically desirable and by making any necessary concession from our strict rights where policy calls for this rather than attempt to find a more liberal interpretation of the law which would have to be of universal application.

\* other cases where the local circumstances might warrant

5. We should, therefore, be prepared in the second phase in Eritrea, and possibly in other territories to be determined on individual merits as a matter of policy, to waive our absolute rights as laid down in the Manual of Military Law, (subject to the obvious safeguards against paying absent owners, etc.), and I should be grateful if you would, in agreement with the Chief Political Officer, East Africa Command, the Controller of Finance and Accounts, the Command Paymaster and the Army Financial Adviser, submit to us a draft instruction for the guidance of all concerned where it is decided to apply this policy, stating clearly those cases in which it is considered that payment should be made and the person who should certify payment. We will then give it urgent consideration and consult the Treasury if necessary.

6. I am sending copies of this letter and of your memorandum to the Chief Political Officer, East Africa Command, Chief Paymaster, Middle East Command, Financial Adviser, Middle East and Chief Paymaster and Financial Adviser, East Africa Command.

Yours,

(Signed) C.E. Key,

TREATMENT OF ENEMY PROPERTY IN OCCUPIED TERRITORIES.

There is still one question which the War Office memorandum of the 14th March, 1914, does not satisfactorily solve. I and my office are still unable to draw a satisfactory line between private movable property taken by the Army for which immediate payment must be made; the matter is of considerable importance, since in those cases where we ought to make immediate payment the cost unquestionably falls on the British taxpayer, whereas in those cases in which the payment can be postponed until the conclusion of hostilities the cost of the material taken may be charged against the Italian Government under the terms of the Peace Treaty. It has been suggested that all payment should be refused except where hardship can be proved, but it appears to me that if we adopt this solution we shall not only be acting contrary to International law, but we shall provide for ourselves and our successors a mess to be cleared up at the end of the war.

The Articles of the Hague Convention which deal with this matter are the following:-

Article 23.

"..... it is particularly forbidden .....  
(9) To destroy or seize enemy property unless such destruction or seizure be imperatively demanded by the necessities of war."

The above para. is under the heading "Means of injuring the enemy - sieges and bombardments" and clearly refers to the period of actual hostilities in any territory.

Article 46.

"..... private property..... must be respected.  
Private property may not be confiscated."

Article 52.

"Requisitions in kind..... shall not be demanded from local authorities or inhabitants except for the needs of the Army of Occupation..... contributions in kind shall, as far as possible, be paid for in ready money; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible."

Article 53.

"..... Except in cases governed by International law, all appliances adopted for the promotion of news, or for the transport of persons, or goods, whether on land, at sea, or in the air, depots of arms, and, in general, all kinds of war material may be seized, even if they belong to private individuals, but they must be restored at the conclusion of peace and indemnities must be paid for them."

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Articles 46, 52, and 53 appear in the Convention under the heading "Military authority over the territory of the hostile state" and appear to refer particularly to the state of affairs in occupied territory when actual fighting has ceased and a military government is established.

The signatories of the Hague Convention bound themselves to embody the provisions of the Convention in instructions to their military forces. In the case of the British Government these instructions are contained in paragraphs 405 to 434, Chap. XIV in the I.M.L. These paras, are authoritative so far as I and the officers serving under me are concerned and unless and until they are amended we ought to follow them. Paras 415 and 416 deal with the problem at issue, but we have experienced very considerable difficulty in interpreting their meaning

Para. 43 (Following the phraseology of Article 53) states in general that all kinds of "war material" can be seized and payment can be deferred. Now "war material" is defined in a foot-note as follows:-

"War/

"War material in its widest sense means anything, that can be made use of for the purpose of offence and defence; it also includes the necessary means of transport."

On the other hand, "war material" is defined in the Field Service Regulations Vol.1 (page XX) as:-

"All tangible requirements for war other than personnel and animals."

The War Office memorandum states that "Munitions of war can be seized and not paid for", and in this follows the French version of Article 53 of the Hague Convention, but, if the term "munitions of war" is to be construed as covering only weapons, ammunition, and such-like, the principle is at once destroyed since the War Office memorandum states that "munitions of war" is to be deemed to include "heavy machinery, building materials and structural steel."

The matter is further complicated by the provisions of Field Service Regulations Vol.1. Chap XIX, Sec.176(9) which says that all kinds of war material may be taken possession of in a theatre of operations. If of private ownership, such material is to be restored at the conclusion of peace with such compensation as may be arranged, but the para. goes on to state that normally all such material will be obtained on requisition or by purchase.

Para. 416 of M.M.L. purports to enumerate the private movable property which must be requisitioned and paid for. It includes in this category such things as food and fuel supplies, liquor and tobacco, cloth for uniforms, leather for boots, and the like. These articles can surely be classified as "war material", yet prompt payment under these instructions is directed.

What is really required is an interpretation of para. 415 and 416 and until this is obtained my officers will be continually raising doubts and difficulties and the Command paymasters will continue to refuse to make any payments to enemy subjects in occupied territories without further and better directions.....

The underlying idea of para.415 appears to be that the invading army has the right to use the material covered by this para., it being understood that the material will be handed back to the owners when the occupying army ceases to use it, together with any compensation in cash it may be decided to grant to the owner at the conclusion of hostilities. The Articles enumerated in para.416 as being those for which immediate payment should be made are clearly of a consumable nature and could not, at the conclusion of hostilities be handed back to their owners. I consider that if this is accepted as the correct distinction between the two paras, many of our difficulties will be solved. Some question may arise as to whether articles such as nuts, nails, screws, bolts, cement and the like which are taken for use in building operations for the Army should or should not be regarded as consumable commodities, but a ruling could be given to resolve this problem.... Under the interpretation suggested, heavy machinery, structural steel, and building materials would not fall to be paid for immediately and the existing War Office ruling would be confirmed.

The question of payment to absent individuals and firms who are not now carrying

Requisition or by purchase.

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What is really required is an interpretation of para. 415 and 416 and until this is obtained my officers will be continually raising doubts and difficulties and the Command paymasters will continue to refuse to make any payments to enemy subjects in occupied territories without further and better directions.....

The underlying idea of para. 415 appears to be that the invading army has the right to use the material covered by this para., it being understood that the material will be handed back to the owners when the occupying army ceases to use it, together with any compensation in cash it may be decided to grant to the owner at the conclusion of hostilities. The Articles enumerated in para. 416 as being those for which immediate payment should be made are clearly of a consumable nature and could not, at the conclusion of hostilities be handed back to their owners. I consider that if this is accepted as the correct distinction between the two paras, many of our difficulties will be solved. Some question may arise as to whether articles such as nuts, nails, screws, bolts, cement and the like which are taken for use in building operations for the Army should or should not be regarded as consumable commodities, but a ruling could be given to resolve this problem.... Under the interpretation suggested, heavy machinery, structural steel, and building materials would not fall to be paid for immediately and the existing War Office ruling would be confirmed.

The question of payment to absent individuals and firms who are not now carrying on business in occupied territories should not be confused with the distinction between paras. 415 and 416. The custodians of enemy property in the various territories represent absent owners and firms and companies who have no authorised attorney present in the occupied territory. Where immediate payment is due for property taken by the Army the custodian would expect to collect the amount due, and I consider that a ruling should be given to the effect that immediate payment, where such is authorised will not be made to the custodian in the case of individual owners who are absent from the territory and firms and companies which are not continuing to carry on business whether or not they have duly authorised attorneys in the territory.

Signed, H. Ralph Hone,  
Brigadier.

Chief Political Officer, Middle East.

2nd October 1942.

TREATMENT OF ENEMY TERRITORY.

1. Heavy machinery, structural steel and building materials even when bona fide private property should be treated as munitions of war under M.M.T. 415 (W.O. to M.E. and E.A. 80059 - 2.4.42).
2. No payment should be made for requisitioned private enemy property, even when owners are present unless essential to avoid economic disturbance or political unrest, which was sole reason for authorizing payment (W.O. to M.E. 81850 - 12.4.42).
3. Privately owned motor vehicles are regarded as susceptible of direct military use: payment may be made for them and other property in this category if essential to avoid economic disturbance or political unrest in the same way as requisitioned property. (W.O. to M.E. 93057 - 5.6.42.)
4. All property classified as susceptible of direct military use should be treated accordingly. The ultimate use to which the material may be put is immaterial (98014- 27.6.42.) "Needs of Army of Occupation" should mean "Needs of the Army of the Occupying Power wherever located" and not be confined to that part of the Army located in the territory concerned. (W.O. to M.E. and E.A. 98014 - 27.6.42.).
5. Where it has been decided that immediate payment is necessary for seized or requisitioned goods, reasonable prices should be paid. (W.O. to M.E. 97228 - 24.6.42.)

3849

7807.

SUMMARY OF SUBSEQUENT MODIFICATIONS TO MEMORANDUM ON  
TREATY OF ENEMY PROPERTY (C184/13, 11/3/42). - 1A

1. Heavy machinery, structural steel and building materials even when bona fide private property should be treated as munitions of war under M.E. 415 (W.O. to M.E. and E.A. 90059 - 2.4.42).
2. No payment should be made for requisitioned private enemy property, even when owners are present unless essential to avoid economic disturbances or political unrest, which was sole reason for authorizing payment (W.O. to M.E. 91850 - 12.4.42).
3. Privately owned motor vehicles are regarded as susceptible of direct military use and thus fall under Para. 415 M.E., and Para. 1(a) section one of Memorandum C184/13; payment may, however be made for them and other property susceptible of direct military use if essential to avoid economic disturbances or political unrest in the same way as requisitioned property. (W.O. to M.E. 99007 - 5.6.42.)
4. All property classified as susceptible of direct military use should be treated accordingly. The ultimate use to which the material may be put is immaterial (W.O. to M.E. and E.A. 98014 - 27.6.42.)
5. "Needs of Army of Occupation" should mean "Needs of the Army of the Occupying Power wherever located" and not be confined to that part of the Army located in the territory concerned. (W.O. to M.E. and E.A. 98014 - 27.6.42.)
6. If property can be moved it should be regarded as movable. (W.O. to M.E. and E.A. 98014 - 27.6.42.)
7. Where it has been decided that immediate payment is necessary for seized or requisitioned goods, reasonable prices should be paid. (W.O. to M.E. 97228 - 2.6.42.)

War Office (F.5)  
1st April, 1943.

389  
389

(U.1687/442/49).

DRAFT MEMORANDUM.

SECRET

Capture by forces acting under Allied Command of ships under the Control of the Enemy in the course of Operations.

NOTE.

This memorandum is confined to the period before the conclusion of a general armistice or any other comparable arrangements under which ships are placed under Allied control as the result of an agreement with the enemy. It is not thought that the provisions of the memorandum prejudice any such arrangements, but the shipping provisions to be included in any general armistice require separate consideration and will form the subject of a separate memorandum. It will be very important to co-ordinate the two sets of arrangements, particularly in regard to ships of original Allied ownership. It will therefore be very desirable, if possible, eventually to combine the contents of these two memoranda in one document.

This raises a number of difficult questions upon which it is essential that prior agreement in principle should be reached between His Majesty's Government and the United States Government and the Allied Governments whose forces or territories are likely to be concerned. These latter Governments will in the first instance perhaps be the Norwegian, Netherlands and Belgian Governments and the French National Committee (or some similar French authority). If no prior agreement in principle can be reached, confusion and disputes are likely to arise which may impede the course of operations and cause ill feeling between the Governments concerned.

2.. It is suggested that the problem should be considered under two main headings:

- (a) The immediate action to be taken as regards any ships captured in the course of such operations; and
- (b) Arrangements to be made for their ultimate disposal.

It seems clear that these two matters should be kept entirely distinct both in practice and in any agreements which may be made between the Governments concerned, and that any steps which may be taken or contemplated under either (a) or (b) above should be mutually without prejudice to steps taken or contemplated under the other.

(A) Immediate action to be taken as regards any ships captured.

3. The objects to be attained are (i) not to impede the Commander-in-Chief or operations in any way; (ii) to put the ships into useful service as soon as possible; and (iii) to avoid all local disputes between the various Allied forces who may be concerned in their capture and also between persons or organisations who may be found to be in local control of the ships. It is suggested that general agreement should be sought for the proposition that the Commander-in-Chief (acting on the advice of his competent advisers), should have absolute discretion over all ships captured.

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(B) Arrangements to be made for the disposal of captured ships.

4. This question is most conveniently dealt with by considering in turn the various/

various classes of ships which may be found in the course of operations.

(i) Ships formerly sailing under British, United States or Allied Flags.

5. The general principle as regards these would be to ensure their return to the Government of the country to which they belonged at the time when they fell into the hands of the enemy is recognised as being ultimately entitled to take over and dispose of them, as they think fit. This principle would apply irrespectively of the place of capture, or of the constitution, or nationality of the Allied force effecting the actual capture. Thus, if in a Norwegian harbour were captured a formerly British ship, a formerly Norwegian ship and a formerly Netherlands ship, subject to (A) above, the first would ultimately be handed over to His Majesty's Government, the second to the Norwegian Government and the third to the Netherlands Government, even though the forces actually capturing them were not British, Norwegian or Dutch, but belonged to some other Allied nationality.

6. In connexion with this class of ships, the following points would require further consideration:-

- (a) In some cases, ex-Allied ships will have been placed by the enemy in a Prize Court in which case some form of Prize proceedings will be required to divest the enemy of their title and to revert it in the Allied Government concerned. In that event it might be convenient for it to be agreed that in general the necessary proceedings should be brought in the Prize Court of the state which is to recover the ship, and failing that in the Prize Court of the state of which the Commander-in-Chief is a national. In other cases no Prize Court proceedings will be necessary and the machinery of transfer to the Allied Government concerned may be comparatively simple.
- (b) The ships concerned would be handed back to the Allied Government concerned, and not to individual nationals or their original owners. It would be for the Allied Government concerned to make the necessary arrangements with their own nationals as regards the ultimate ownership of the ship. This would be the most convenient procedure and in any case may be necessary because of the existence of Allied Governmental decrees conferring some form of title to these ships upon the Allied Government.
- (c) The Allied Governments concerned should probably enter into agreements mutually indemnifying each other against any actions or claims which may be brought against them in consequence of the handing over of the ships (e.g. by the original owners or charterers.)
- (d) The Allied Governments should mutually agree to waive all claims for prize salvage in respect of these ships.
- (e) Agreements will be necessary to cover cases where underwriters have paid a total loss upon the ship, in most of which cases the total loss payment will in fact have been made by British Authorities or underwriters.

(ii) Enemy ships.

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(ii) Enemy ships.

7. This class will be ships flying the flag, or belonging to persons who are nationals of or resident in the territory, of states with whom the Allied Governments concerned are at war. It is clear that these ships will have to be placed in a Prize Court in order that a good title to them can be secured, and it is suggested that the appropriate Prize Court would be that of the state of whom the Commander-in-Chief is a national. This question however must depend to some extent upon the ultimate allocation of captured enemy ships as between the Allied Governments concerned, and if it is not possible to reach prior agreement at this stage upon this question (which is clearly bound up with problems of post-war shipping), it is essential for practical reasons that a procedure should be evolved to divest the ship of its enemy character as soon as possible and to confer upon one or other of the Allied Governments a sufficiently valid temporary title to enable the ship to be used. Unless agreement can be reached in advance upon such a procedure there is a grave risk that captured enemy ships may be retained by or on behalf of the various Allied Governments concerned in the operations with a view of staking out a final claim to them.

8. It is possible to think of various bases upon which the temporary or permanent allocation of such enemy shipping might be decided; but it is thought that this question required further consideration.

9. In any event there should be mutual agreements between the Allied Government, as in the case of Allied ships, to waive prize salvage claims.

(iii) Danish Ships.

10. His Majesty's Government in the United Kingdom treat these as technically enemy and place them in the Prize Court, but requisition them out of that Court for immediate use without proceeding to condemnation. The United States Government deal with these ships through the Danish Committee in New York. It is the intention of His Majesty's Government to return these ships to Denmark after the war and the procedure which they have adopted is designed in order to obtain a good title to them in the meantime. It is suggested that any Danish ships captured should be handed over to His Majesty's Government or the United States Government to be dealt with on these lines.

(iv) French Ships.

11. The procedure to be adopted as regards these ships must to a great extent depend upon whether anybody has in the meantime been recognised by the Allied Governments concerned as the Government of France. It is understood that in general His Majesty's Government are prepared to return to France at the end of the war all French ships which may be captured by them in the course of military operations. Pending the moment that they can be returned it may be necessary to make arrangements to secure a valid title to them so that they can be safely used, and subject to any arrangements which may be made with the French National Committee, or other similar French authority, the most convenient course might be to arrange for all these ships to be requisitioned by either His Majesty's Government or the United States Government and put into service. The proceeds resulting from their employment, together with the ships themselves, would be held until a French Government had been established and recognised to whom they could be returned.

(v) Finnish Ships.

12. These could in general be treated like other enemy ships, but since the United States of America are not at war with Finland, it would not be possible to arrange for them to be placed in a United States Prize Court.

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## DRAFT MEMO.

Cargoes captured on ships which fall into the hands of the Allied Armed Forces  
i. the course of Future Operations in Europe.

This memorandum is confined to the period before the conclusion of a general armistice or any other comparable arrangement under which cargoes found on ships in the course of or immediately after future operations are placed under Allied control as the result of an agreement with the enemy. It is not thought that the provisions of this memorandum prejudices any such arrangements, but the provisions about cargoes found on such ships to be included in any general armistice may require separate consideration and may need to be incorporated in a separate memorandum. It will in any event be most important to co-ordinate the two sets of arrangements and to ensure that as far as possible disputes do not arise as to whether any particular cargo falls to be dealt with under the provisions of the present memorandum or under the provisions of a general armistice or some similar arrangement. If a separate memorandum is found to be necessary it would be desirable if possible to combine the contents of the two memoranda in one document.

This question must be considered in the light of any conclusions which may be reached as to the disposal of any ships which may fall into the hands of the Allied Armed Forces during the course of operations in what is at present enemy-occupied territory. The question of ships has been considered in a separate memorandum and certain suggestions have been made. As regards cargoes, it may be possible to follow the general line proposed for dealing with ships but certain differences should be noted:

- (1) whereas in the case of recaptured ships a certain number may be found to have been originally British-owned or even United States-owned, it is almost inconceivable that there would be in the present circumstances any British or United States interest in any cargoes captured during the course of operations on the Continent;
  - (2) it seems almost certain that any cargoes captured on such ships could, failing any other arrangement, be placed in a British Prize Court if they were brought to this country on the ground of either enemy owner-ship or enemy destination.
2. It is suggested that it will be convenient to deal with cargoes under the two same headings as those applied in the case of ships, namely,
    - (A) immediate disposal, and
    - (B) ultimate disposal or allocation.

3. As regards immediate disposal (A), the Commander-in-Chief should be given, as in the case of ships, complete discretion and power over all cargoes, whether actually on board ship or on quayside, falling into the hands of troops operating under his command or found in the area within which he is exercising his command. The Commander-in-Chief's power should cover all rights of disposal, removal, sale,

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4. As regards, ultimate disposal or allocation, (B) it is to be expected that a certain number of cargoes will be brought to this country on the ships which were carrying them at the time that the ships came under Allied control and will be unloaded here. As mentioned above, there will be no British interest as such in these cargoes although they would plainly be liable to be seized and condemned in a British Prize Court. There may, however, be a number of Allied and enemy interests in such cargoes; some of them for instance being owned by or on behalf of the enemy governments, some of them owned by or on behalf of the <sup>British</sup> ~~British~~ regimes, and some of them owned by or on behalf of persons or concerns resident in the various occupied territories. Further, there may in some cases be a considerable neutral interest involved (as for instance in a cargo of iron ore

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being brought from the north of Norway to a port in some other part of Europe.

5. As regards all such cargoes, there appear to be three courses open as follows:

- (a) to place in prize in which case probably a British Prize Court would be the most convenient, as being the nearest available, although in some cases the Prize Court of the State of which the Commander-in-Chief is a national might also be considered: or
- (b) to arrange for their requisition under the Defence Regulations by the proper authorities in this country (or under corresponding powers in any other Allied country to which they may be brought); or
- (c) to allow the Allied Governments to take over the cargoes, either directly or on behalf of their own nationals, by requisitioning the cargoes under their own law and by agreement with His Majesty's Government and to allow them to arrange for their storage, disposal, etc.

6. So far as this country is concerned, there are three important objects which any arrangement made with the Allied Governments should, if possible, attain, namely:

- (i) to ensure the rapid and easy removal of the cargoes from ports where they are landed to such places in the United Kingdom as are most suitable, having regard to conditions of transport and storage freedom from air attack etc:
- (ii) to ensure that any warehousemen etc. dealing with such cargoes and any purchaser who may ultimately acquire them have a good title: and
- (iii) to ensure that as far as possible no litigation is brought either in the immediate or more remote future in the courts of this country against either His Majesty's Government or private persons or concerns who may have acquired or had dealings with such cargoes.

These three requirements are legitimate interests of His Majesty's Government which should be safeguarded in any agreed arrangements which it may be possible to make with the Allied Governments about these cargoes.

7. Taking the three possible courses mentioned above in order, it is clear that course (a), namely placing the cargoes in prize, would certainly effectively achieve objects (ii) and (iii) and if the necessary machinery can be expedited, should also achieve object (i). It is thought, however, that any such proposal would meet insuperable objections from the Allied Governments who would claim that His Majesty's Government are making an unjustifiable profit out of goods in which His Majesty's Government really had no interest and which belonged under their own laws to themselves or to their nationals. This solution may therefore have to be excluded as a general rule, although, failing any other arrangement as regards any particular cargo, it may be necessary to fall back upon it in order to ensure a satisfactory title being obtained for the goods.

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8. As regards solution (b), namely requisition by the proper authorities in the United Kingdom, this also is likely to achieve effectively objects (ii) and (iii), and may also be the most convenient for attaining object (i). It is also likely to appeal more to the Allied Governments than solution (a), since the effect of the requisition will be that the proper authorities will incur a statutory obligation to pay compensation to the owners of the goods. The question of who are "owners" for this purpose will have to be settled either by agreement between the Departments of His Majesty's Government and the Allied Governments or by litigation in the English Courts. It is feared, however, that the Allied Governments are likely to raise objections to this course on the grounds that the cargoes have been brought here for administrative and military conveniences only and that His Majesty's Government have no right whatever vis-a-vis the Allied Governments and their nationals to use their requisitioning powers to take possession and dispose of the cargoes. Further, in many cases it is thought that the Allied Governments may wish to obtain possession of the cargoes ~~themselves~~, either with a view to selling them or possibly to reshipping them to their own countries as soon as they have been freed of enemy domination, and it is thought that they may attach considerable importance to obtaining possession of the cargoes themselves in order to add to their authority and prestige on the eve of their return to/

return to their own countries. Finally it is known that, in the case of the Norwegian Government at any rate, they have passed requisitioning decrees of their own enabling them to requisition all Norwegian owned goods in this country and in all probability they will wish to be allowed to put these decrees into operation without interference from His Majesty's Government.

9. It is, therefore, necessary to consider the advantages and disadvantages of solution (c). The disadvantage of this arrangement is that difficulties might arise under all of objects (i), (ii) and (iii), unless the question can be settled by prior agreement with the Allied Governments. It is suggested, however, that since to allow the Allied Governments to requisition and deal with these cargoes in this country would represent a considerable concession on the part of His Majesty's Government, His Majesty's Government would be in a strong position to insist that adequate guarantees were given by the Allied Governments to ensure that all three objects mentioned above were achieved. If this could be arranged, this solution would have one great advantage over the others, namely that since it seems probable that in many of these cargoes there will be a number of conflicting claims (e.g. cargo sent by a Norwegian exporter to a Belgian importer on a Dutch ship), in which no British interest would be involved, it would clearly be desirable if possible that His Majesty's Government should not become entangled in these various claims. No real British interest would be involved and His Majesty's Government by intervening to deal with the cargoes, might lay themselves open to claims being made against them from a number of different quarters. On the other hand, if the Allied Governments could reach an agreement which was mutually satisfactory both to themselves and to His Majesty's Government, they should be left to settle all these claims among themselves, and much trouble and expenses might be saved to His Majesty's Government.

10. Moreover, it is thought that the Allied Governments will press very hard for being allowed to requisition or take over these cargoes themselves, and will intensely dislike being told that they will not be permitted to give effect to their various decrees as regards these cargoes in the United Kingdom.

11. It is appreciated that there is a risk that the Allied Government decrees may be held invalid by the English courts, particularly if they were to be contested at a date considerably after the termination of hostilities. It is thought, however, that if a satisfactory agreement can be reached with the Allied Governments in which the attitude of His Majesty's Government towards these decrees can be clearly stated and satisfactory guarantee and indemnities received from the Allied Governments, it is unlikely that many, if indeed, any, such cases will arise in practice.

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COPY of letter from Mr. E. Rowe-Dutton, H.M. Treasury, to H.S. Gregory, Esq., C.B.

With Mr. E. Rowe-Dutton's compliments.

(H.M. TREASURY).

22nd March, 1943.

SECRET

Dear Gregory,

I am afraid I have been slow to comment on your letter of 25th February, enclosing drafts of Proclamations to cover T.W.E. matters in the event of military occupation of enemy territory in Europe. It has taken me some time to think out the implications of your "second stage" material.

As regards the First Stage, I have few comments:-

Document 1. Confine to first two paragraphs. Will not all penalties be a matter for a general proclamation? As to paragraph 4, the offender will be tried before military courts, who (I should hope) would not need this detailed guidance.

Document 2. Confine to paragraph 1. (This is not an enabling Order, giving powers to a Government Department).

As regards the Second Stage, I find myself most reluctant to commit myself to these or any documents which could be drafted here and now. We cannot, in my view, hope to impose British legal terms and conceptions on a continental country, with any hope of their being understood either by the inhabitants or by the banks, etc., who would in practice have to work them. Accordingly, my mind works on wholly different lines, and I should seek to secure continuity, either with the law of the past, or with that of the future, "the law" for this purpose being local law. Let me take three examples:-

Italy has now, of course, a T.W.E. Code. For a long time after the occupation there isn't going to be any trade. When there is, let us hire a friendly Italian lawyer, to reproduce the main provisions of the Italian T.W.E. code for signature by the C-in-C. Thus, there will be continuity with the past, and (when there is any trade) it will be under the old conditions, but with a change of geography only.

Norway, may not have had a T.W.E. code before May 1940. But when the Norwegian Government reassumes control it will no doubt issue one. It seems essential that "Second Stage" (if it precedes the exercise of Norwegian sovereignty in occupied areas) should merge directly into Norwegian sovereignty, and that the Norwegian Government should draft the Second Stage proclamation, even if it is signed by the C-in-C.

France has both a past and a future. Again, I should, for Second Stage, go

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France has both a past and a future. Again, I should, for Second Stage, go on the lines of re-enacting the French T.W.E. legislation of September, 1939, with the necessary changes in geographical application. It would then run on smoothly with the legislation when French sovereignty is restored.

Accordingly, I should leave Document 3 in abeyance.

Turning now to your Custodian (Document 5), I think that experience has shown the need for such an appointment; my only doubt is whether it is suitable to set out all his duties and attributes in the Proclamation, at least until Second Stage. I should like to consult Rennell (who may be available shortly) on the problem, but I am apprehensive of setting up an officer who (paragraph 3(k)) would have immediate possession of e.g., an enemy owned building, which the Army might require for military purposes. Either they would go in over his head, or have to wait to agree an inventory, etc., with him. Neither seems quite right.

This leads to my first query on your draft, What are the relations between your Custodian and the Military? Is he actively an opposite number to them (as a civilian owner of property is in this country) or is he a receptacle into which they pour receipts, etc., for property taken over from an absentee enemy owner? I believe the latter is sufficient for First Stage anyhow, and am inclined to provide

H.S. Gregory, Esq., C.B.,  
that the/

that the Custodian, when requested by the C.C.A.O. shall act as representative of the absentee enemy owner.

My second query follows obviously from the first. Is the Custodian to be the actice opposite number of the civilian population? That is, if I am tenant of a house owned by an absentee enemy owner, do I pay my rent to the Custodian? I am very doubtful of this indeed. We can hardly be contemplating taking over money so collected for the benefit of British creditors, etc., etc., Therefore we should be collecting only to return to the eventual owner. I don't see any fun in this, and I don't believe it is a duty we owe to the absentee enemy. On this side of the Custodian's activities, I should wait until Second State, and still be doubtful. If we are on Allied territory, then it is surely the Allied Government who (always at Second Stage) will want to put their man in for the inter-civilian side, and I should be happy to let them do so.

My tentative conclusions (pending Rennell's views) are thus that the Proclamation should be very limited, and I doubt it need go much further than an expansion into proper language of the following idea:-

"There is hereby appointed a Custodian, who shall, if so requested by the C.C.A.O., take over any enemy property and shall have full powers to manage the same, including power to give a full discharge for any sum paid to him as representative of the enemy owner, whether by the Military authorities or otherwise".

Turning now to Import and Export Licences, I am not sure if I have followed your thought. While I agree that a Licensing procedure seems desirable, do you connect directly with T.E.? In fact, once an area of territory is in effective occupation by H.M. or Allied Forces, is there any enemy taint left inside that territory? There will of course, be enemy property, but surely the individuals physically present there will not be "enemies". If so, the need to obtain an Export Licence is not an "enemy" affair, but is precisely on the same footing as in the U.K. Equally, if trade restarts, I see no "enemy" reason to stop an English firm sending goods to a place behind our lines, though I fully agree that on supply grounds an Import Licence is needed.

But if, as I believe, you are thinking of this Licensing as a supply point, then I have no comment to make, since it is not my side of the picture.

fun in this, and I don't believe it is a duty we owe to the absentee enemy. On this side of the Custodian's activities, I should wait until Second State, and still be doubtful. If we are on Allied territory, then it is surely the Allied Government who (always at Second Stage) will want to put their man in for the inter-civilian side, and I should be happy to let them do so.

My tentative conclusions (pending Rennell's views) are thus that the Proclamation should be very limited, and I doubt it need go much further than an expansion into proper language of the following idea:-

"There is hereby appointed a Custodian, who shall, if so requested by the C.C.A.O., take over any enemy property and shall have full powers to manage the same, including power to give a full discharge for any sum paid to him as representative of the enemy owner, whether by the Military authorities or otherwise".

Turning now to Import and Export Licences, I am not sure if I have followed your thought, while I agree that a Licensing procedure seems desirable, do you connect directly with T.E.? In fact, once an area of territory is in effective occupation by H.M. or Allied Forces, is there any enemy taint left inside that territory? There will of course, be enemy property, but surely the individuals physically present there will not be "enemies". If so, the need to obtain an Export Licence is not an "enemy" affair, but is precisely on the same footing as in the U.K. Equally, if trade restarts, I see no "enemy" reason to stop an English firm sending goods to a place behind our lines, though I fully agree that on supply grounds an Import Licence is needed.

But if, as I believe, you are thinking of this Licensing as a supply point, then I have no comment to make, since it is not my side of the picture.

In making the above observations I have been impressed with the impossibility of finding staff to run a proper T.W.E. office in occupied areas, and have therefore plumped for something very rough and ready, at First Stage anyhow. Thereafter, I am anxious to avoid attempting to introduce a British code into continental Europe: these are my main principles, and I am afraid they involve the sacrifice of complete water-tightness. Even so, I would not expect the enemy to gain very much.

I am sending copies to Key and Lithby.

Yours sincerely,

(Signed):- E. Rowe-Dutton.

COPY of letter from Mr. H.S. Gregory (Trading with the Enemy Department) to  
E. Rowe-Dutton Esq., C.M.G.

25th February, 1943.

My dear Rowe-Dutton,

MOST SECRET

I am afraid I have been an unconscionable time in preparing the proclamations and documents which I think may be of use in the event of military occupation of enemy territory in Europe, but here are my first thoughts on the subject.

The collection of documents envisages two stages. Documents, 1, 2 and 2a, relate to the first stage and documents 3 to 5 the second. The documents marked A to F are consequential on document 3.

Experience in North Africa suggests to me that the first step which the military authorities must take in the occupation of enemy territory is by proclamation to prohibit any trade or intercourse outside the occupied zone except under licence. The particular form of licence set up is not one which a single person can decide. For North Africa the N.A.E.B. was probably the only possible method. If the occupation occurred in other places, it might well be that some branch of the Military Administration should be charged with the preliminary investigation necessary to determine what goods were required and what goods can be spared in the light of shipping and other economic considerations. But I am sure that by censorship and other means a stop should be placed on attempts of individual merchants and others to resume normal trade conditions until the administrative machine and the military situation are ready to cope with the situation.

On this basis, I have drafted document No. 1, which, in the first place, prohibits such trade, and, in the second place, calls upon all persons in the occupied territory who are holding property or managing a business on behalf of any person outside the territory, to report the facts. There is no reason why these two objects should be contained in the same proclamation, but in the case of genuine enemy territory, I am sure that the information sought in paragraph 2 of document 1 in its rough form will be required for administrative purposes at the second stage.

Again, in the first stage, I feel reasonably certain that something in the nature of a moratorium will have to be considered and will probably be required. I have accordingly drafted two proclamations in alternative forms.

The proclamation in document 2 is drafted so that any person may claim the benefit of the moratorium, except for the payment of wages and salaries, small debts and cheques. I can believe that in some circumstances, e.g., if a plentiful supply of currency is not available, it may be necessary to give banks some relief from meeting almost unlimited obligations. That, however, is a matter to be decided on the facts at the time.

The alternative moratorium proclamation in document 2a might be required in the event of military occupation, including an important banking centre, and it is based on the moratorium proclamation of 1914. Paragraph 1 of document 2a relates

branch of the Military Administration should be charged with the preliminary investigation necessary to determine what goods were required and what goods can be spared in the light of shipping and other economic considerations. But I am sure that by censorship and other means a stop should be placed on attempts of individual merchants and others to resume normal trade conditions until the administrative machine and the military situation are ready to cope with the situation.

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The alternative moratorium proclamation in document 2a might be required in the event of military occupation, including an important banking centre, and it is based on the moratorium proclamation of 1914. Paragraph 1 of document 2a, relates as you will see, to the particular position of bills and makes provision for re-acceptance. You may be interested to contrast paragraph 2 with the wording of document 2; they represent two different methods of getting at the same thing. If no really large questions of the re-acceptance of bills are concerned, I am inclined to think that the method of dealing with ordinary commercial debts proposed in document 2 is preferable to that proposed in paragraph 2 of document 2a.

The remaining documents represent the second stage and they provide in document 3 for a general Trading with the Enemy proclamation, in document 4 for an import and export licensing procedure, and in document 5 for a Custodianship procedure. You raised the question in one of our talks, whether, in the event of our Forces occupying Allied territory, provision for Custodianship would be necessary. This must depend, I think, on the nature of the immediate political set up. I am, however, of opinion that some provision will have to be made in the early and military stages, for looking after the property of absent enemies, even if the occupation is of Allied territory. Payments will be due from the occupying Forces. There will certainly be property and businesses for the management of which a proper curator must be appointed, and unless the restored Government comes into the field of operations with a ready-made machine prepared to co-operate with the/

the military command, I do not think we can ignore the need for some form of Custodianship of however short duration. Obviously if we occupy genuine enemy territory steps must be taken to provide an adequate machine, both on security and on conservation grounds.

Coming to document No. 3, as soon as the general ban on trade is lifted (i.e., document 1 is cancelled), the next step is to prevent whatever trade is resumed from advantaging the enemy. Document 3 follows broadly the lines of our Trading with the Enemy Act, with certain alterations, which, I think, should facilitate matters. If you compare article 8 with Sections 3 and 3a of the Act, you will see that I have simplified the procedure. In effect, document 3 relates to trading with the enemy and is designed purely to prevent such trading, and the powers of the Board of Trade and of the Custodian relating to the collection of enemy assets and the running of the business of absent enemies, has been gathered up in document 5.

Document 4 relates to the importation and exportation of goods once the prohibition in document 1 has been rescinded. It places an obligation on all persons importing or exporting goods into the territory to secure a license. This I think our experience in North Africa shows is entirely necessary.

Document 5 refers to the treatment of enemy property in the occupied territory. There is one point of principle to which I should draw attention at the outset. It seems to me hopeless to go through the paraphernalia of a series of Vesting Orders in a case like the present. All enemy property and all enemy businesses in the occupied territory must be vested in one swoop in the Custodian, unless we are just going to make clerical and administrative work for the already over-worked Military Administration. Accordingly you will find that in article 2 provision is made for the Custodian to take over without any further authority all such property and business. In paragraph 3 I have set out a list which is undoubtedly open to expansion and correction, of the specific powers which he will require to carry out his functions.

I do not think there is much which need be said about appendices labelled A to H. They indicate in their titles the particular use to which they should be put, and I am quite prepared to believe that they can be considerably improved.

Finally, I must say that while from place to place I have made an attempt to cast the opening words in the proper form, you will see that in other places I have entirely omitted the preambles, and the proper form of words to be used is one in which I am afraid I am not likely to be of much assistance.

I am sending Key half a dozen copies of this collection, in case he would like to pass any on to Gunston.

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I am sending Key half a dozen copies of this collection, in case he would like to pass any on to Gunston.

Yours sincerely,

(Signed): H. S. Gregory.

APPENDICES

A.

THE TRADING WITH THE ENEMY PROCLAMATION. 19

NOTICE

IT IS HEREBY NOTIFIED for general information that the following territories are "enemy territory" within the meaning of the Trading with the Enemy Proclamation, 19 :-

- (a) (i) Germany.
- (ii) The Protectorate of Bohemia and Moravia,  
Slovakia and the Free City of Danzig;
- (b) The Kingdom of Denmark, excluding Greenland, Iceland and the Faroe Islands;
- (c) Poland;
- (d) Norway;
- (e) Metropolitan France
- (f) The Kingdom of Belgium, excluding the Belgian Congo and the Mandated Territory of Ruanda-Urundi;
- (g) The Kingdom of the Netherlands in Europe; the Netherlands East Indies;
- (h) The Grand Duchy of Luxemburg;
- (i) Roumania;
- (j) Bulgaria;
- (k) Hungary;
- (l) Yugo-Slavia;
- (m) Mainland Greece;
- (n) Finland;
- (o) Channel Islands;
- (p) The Empire of Japan, comprising Japan proper,

- (c) Poland;
- (d) Norway;
- (e) Metropolitan France
- (f) The Kingdom of Belgium, excluding the Belgian Congo and the Mandated Territory of Ruanda-Urundi;
- (g) The Kingdom of the Netherlands in Europe; the Netherlands East Indies;
- (h) The Grand Duchy of Luxembourg;
- (i) Roumania;
- (j) Bulgaria;
- (k) Hungary;
- (l) Yugo-Slavia;
- (m) Mainland Greece;
- (n) Finland;
- (o) Channel Islands;
- (p) The Empire of Japan, comprising Japan proper, Korea, Formosa, Karafute, Kuantung Leased Territory and the islands in the Pacific under Japanese mandate;
- (q) Manchuria and the occupied areas of China;
- (r) Indo - China;
- (s) Thailand;
- (t) Lithuania, Latvia, Esthonia;

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/(u)



B.

THE TRADING WITH THE ENEMY PROCLAMATION, 19

ORDER

IN EXERCISE of the powers conferred upon him by Article 9 of the Trading with the Enemy Proclamation, 19 , the Chief Civil Affairs Officer, hereby directs that the provisions of the said Proclamation shall apply in relation to each of the territories specified in the Schedule hereto as they apply in relation to enemy territory.

SCHEDULE

- (a) Algeria
- (b) The French Zone of Morocco:
- (c) Tunisia
- (d) Monaco:

territory.

SCHEDULE

- (a) Algeria
- (b) The French Zone of Morocco:
- (c) Tunisia
- (d) Monaco:

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C.

THE TRADING WITH THE ENEMY PROCLAMATION, 19

GENERAL LICENCE.

IN EXERCISE of the powers conferred upon him by

Article 4 (2) of the Trading with the Enemy Proclamation,

19 the Chief Civil Affairs Officer hereby declares that

[ ] being

(a) any body of persons (whether corporate or unincorporate) controlled by an enemy; or

(b) any body of persons constituted or incorporated

in, or under the laws of, a State at War with

his Britannic Majesty, shall not, so far as

concerns the business carried on in the territory,

be deemed to be an enemy for the purposes of the

said Proclamation.

GA.

THE TRADING WITH THE ENEMY PROCLAMATION, 19

REVOCATION OF LICENCE

IN EXERCISE of the powers conferred upon him by

Article 4(2) of the Trading with the Enemy Proclamation,

19 the Military Administrator hereby revokes the

General Licence published as Legal Notice No. in

the Gazette of the day of 19 in so far as

such General Licence concerns the business (es)

in, or under the laws of, a State at War with his Britannic Majesty, shall not, so far as concerns the business carried on in the territory, be deemed to be an enemy for the purposes of the said Proclamation.

CA.

THE TRADING WITH THE ENEMY PROCLAMATION, 19

REVOCATION OF LICENCE

IN EXERCISE of the powers conferred upon him by Article 4(2) of the Trading with the Enemy Proclamation, 19 the Military Administrator hereby revokes the General Licence published as Legal Notice No. in the Gazette of the day of 19 in so far as such General Licence concerns the business (es) specified in the Schedule hereto.

SCHEDULE

(Here insert name and address of business)

D.

THE TRADING WITH THE ENEMY PROCLAMATION, 19

O R D E R

IN EXERCISE of the powers conferred upon him by Article 4(3) of the Trading with the Enemy Proclamation, 19 the Chief Civil Affairs Officer, hereby orders as follows:-

1. This Order may be cited as the Trading with the Enemy (Specified Persons) Order, 1941.

2. Each of the persons specified in a list which has been deposited at the office of the Custodian shall, for the purpose of the said Proclamation, be deemed to be an enemy within the meaning of that Proclamation.

(Date)

(Signature)

NOTE: Such list may be inspected free of charge by members of the public at any time during the usual office hours.

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THE TRADING WITH THE ENEMY PROCLAMATION 19  
ORDER

E.

IN EXERCISE of the powers conferred upon him by Article 4(3) of the Trading with the Enemy Proclamation, 19, the Chief Civil Affairs Officer, hereby orders as follows:-

1. This Order may be cited as the Trading with the Enemy (Specified Persons) (Amendment, No.1) Order, 19, and shall be read as one with the Trading with the Enemy (Specified Persons) Order, 19, hereinafter referred to as the Principal Order.

2. Each of the persons specified in a list [which has been deposited at the office of the Custodian shall] for the purposes of the said Proclamation, be deemed to be an enemy within the meaning of that Proclamation, and the list specified to in the Principal Order is hereby amended -

(a) by inserting therein, or deleting therefrom the names and addresses; and

(b) by making thereto the amendments, specified in the first mentioned list.

(Date)

(Signature)

NOTE: The lists referred to in this Order and the Principal Order may be inspected free of charge by members of the public at any time during the usual office hours.

3886

THE TRADING WITH THE ENEMY PROCLAMATION, 19

ORDER

WHEREAS I, (here insert full name, etc.) Chief Civil Administrator, consider it expedient for discovering or preventing any breach of Article 3 of the Trading with the Enemy Proclamation, 19, to make a written order authorising a specified person to inspect all the books and documents belonging to, or under the control of, (here insert name and address of person firm or company).

NOW I, (here insert the full name, etc.) Chief Civil Affairs Officer, in exercise of the powers conferred upon me by Article 8 of the Trading with the Enemy Proclamation, 19, do hereby authorise (here insert name of the Compliance Officer) to enter the premises of, and to inspect the books and documents belonging to, the said (here insert name and address of person, firm or company) anywhere in the territory.

GIVEN under my hand this      day of      19 .

CHIEF CIVIL AFFAIRS OFFICER.

G.  
THE TRADING WITH THE ENEMY PROCLAMATION 19

APPOINTMENT OF SUPERVISOR

WHEREAS it is provided by sub-Article (2) of Article 8 of the Trading with the Enemy Proclamation, 19 , that if, it appears to the Military Administrator that it is expedient for securing compliance with the said Proclamation, that any business should be subject to supervision, the Chief Civil Affairs Officer may appoint a Compliance Officer to supervise the business with such powers as the Chief Civil Affairs Officer may determine:

AND WHEREAS it appears to me, (here insert full name etc) Chief Civil Affairs Officer that the business of (here insert name and address of business) should be subject to supervision:

NOW THEREFORE I, (here insert full name etc) Chief Civil Affairs Officer, in exercise of the powers conferred upon me by sub-Article (2) of Article 8 of the said Proclamation do hereby appoint (here insert name of the Compliance Officer) to supervise the said business, and for the purpose of supervising such business the said (here insert name) is hereby authorised to exercise all such powers as appear to him to be necessary for securing that no breach of Article 3 of the said Proclamation is committed.

GIVEN under my hand this                      day of                      19

CHIEF CIVIL AFFAIRS OFFICER

the Chief Civil Affairs Officer may determine:

AND WHEREAS it appears to me, (here insert full name etc) Chief Civil Affairs Officer that the business of (here insert name and address of business) should be subject to supervision:

NOW THEREFORE I, (here insert full name etc) Chief Civil Affairs Officer, in exercise of the powers conferred upon me by sub-Article (2) of Article 8 of the said Proclamation do hereby appoint (here insert name of the Compliance Officer) to supervise the said business, and for the purpose of supervising such business the said (here insert name) is hereby authorised to exercise all such powers as appear to him to be necessary for securing that no breach of Article 3 of the said Proclamation is committed.

GIVEN under my hand this                      day of                      19

CHIEF CIVIL AFFAIRS OFFICER

388'

H.

THE TRADING WITH THE ENEMY PROCLAMATION, 19

RESTRICTION ORDER

WHEREAS it is provided by Article 8 of the Trading with the Enemy Proclamation, 19 that where any business is being carried on in the territory by, or on behalf of or under the direction of, persons all of whom are enemies or enemy subjects or appear to the Chief Civil Affairs Officer to be associated with enemies, the Chief Civil Affairs Officer may, if he thinks it expedient so to do, make a restriction under prohibiting the carrying on of the business either absolutely or except for such purposes and subject to such conditions as may be specified in the order:

AND WHEREAS it appears to me (insert name etc) that such an order should be made in respect of the business of (here insert name and address of business):

NOW THEREFORE I, (here insert full name, etc), in exercise of the powers conferred upon me by Article 8 of the said Proclamation do hereby prohibit the carrying on of the said business (a) absolutely (except for such purposes and subject to such conditions as are specified in the First Schedule hereto) (b) and I appoint (here insert name of person appointed controller) to control and supervise the carrying out of this Order and confer on the said (here insert

if he thinks it expedient so to do, make a restriction order prohibiting the carrying on of the business either absolutely or except for such purposes and subject to such conditions as may be specified in the order:

AND WHEREAS it appears to me (insert name etc) that such an order should be made in respect of the business of (here insert name and address of business):

NOW THEREFORE I, (here insert full name, etc), in exercise of the powers conferred upon me by Article 8 of the said Proclamation do hereby prohibit the carrying on of the said business (a) absolutely (except for such purposes and subject to such conditions as are specified in the First Schedule hereto) (b) and I appoint (here insert name of person appointed controller) to control and supervise the carrying out of this Order and confer on the said (here insert name of controller) the powers specified in the Second Schedule hereto.

FIRST SCHEDULE

SECOND SCHEDULE

- (a) Strike out the words which are inapplicable
- (b) This part may be in the same Order or in a subsequent Order - see Article 6(2).

Document 1

General Prohibition of Trading outside Occupied Territory.

1. It is hereby prohibited for any person in the territory occupied by to have, or to attempt to have, any commercial, financial or other intercourse or dealings with, or for the benefit of, any person outside that territory except under an authority given generally or specially by the Chief Civil Affairs Officer, or by some person authorised by him in that behalf.
2. Any person who has hitherto carried on business within the territory on behalf of a person resident in any area outside (the occupied territory) or who holds or manages any property on behalf of such a person shall within seven days report the facts to the Officer.
3. (1) Any person found guilty by a competent Court of a breach of paragraph 1 of this Proclamation shall be liable to be imprisoned for a term not exceeding five years, or to a fine not exceeding , or to both such imprisonment and such fine and the Court may order that any goods or money in respect of which the offence has been committed shall be forfeited to the Military Administration of

(2)/

- (2) Any person found guilty by a competent Court of a breach of paragraph two of this Proclamation shall be liable to be imprisoned for a term not exceeding two years, or to a fine not exceeding , or to both such imprisonment and such fine.

4. For the purposes of this Proclamation:-

- (a) a certificate given by, or on behalf of, the Chief Civil Affairs Officer that an "Area" is not within the territory occupied by shall be conclusive evidence of the facts stated in the certificate;
- (b) a "person" shall mean any individual or body of persons whether corporate or unincorporate.

Document 2

Moratorium Proclamation

The General Officer Commanding His Britannic Majesty's Forces in  
hereby directs:-

1. For a period of            days from the date of this Proclamation there shall be a Moratorium enforceable at the instance of any debtor in the territory occupied by            on all debts, other than those specified in the Schedule hereto, which may now be due and owing or which during the continuance of this Proclamation shall become due and owing by such debtor.

2. The period of this Moratorium may be extended or reduced and the Schedule of debts to which this Moratorium does not apply may from time to time be added to, deducted from, modified or varied, and the said Schedule may be further added to, deducted from, modified or varied by excluding from the operation of the Moratorium certain classes or descriptions of debtors or creditors.

Schedule /  
300

Schedule

1. Wages or Salaries.
2. Debts not exceeding payable to creditors within the territory.
3. Cheques or bills payable on demand.

The period of this schedule may be extended or reduced and the schedule of debts to which this schedule does not apply may from time to time be added to, deleted from, modified or varied, and the schedule may be further added to, deleted from, modified or varied by extending from the operation of the schedule certain classes or descriptions of debts or creditors.

Valid  
JUL

Document 2A.

ALTERNATIVE MORATORIUM PROCLAMATION

1. The General Officer Commanding His Britannic Majesty's Forces in  
[ ] hereby directs that if on the presentation of a bill  
of exchange, other than a cheque or bill, on demand, which has been  
accepted before [ ] and is due for payment before [ ]  
[ ] the acceptor re-accepts the bill by a declaration  
[on the face of the bill] in the form set out in the schedule to this  
proclamation, that bill shall for all purposes, including the liability  
of any drawer or endorser or any other party thereto, be deemed to be due  
and to be payable on a date one calendar month after the date of its  
original maturity and to be a bill for the original amount thereof <sup>increased</sup> by the  
amount of interest thereon calculated at [ ] per cent from the date  
of re-acceptance to the new date of payment.
2. The General Officer Commanding His Britannic Majesty's Forces further  
directs that no action shall lie against any person or body of persons  
from whom payments of the following kinds are due between [ ] [ ]  
and [ ] [ ] under contracts or agreements made before [ ] [ ],  
being payments in respect of rent, mortgage interest, taxes on property,  
hire purchase agreements, insurance premiums provided the sums due are paid  
before the expiry of thirty days of the date when they became due and  
further if the sums due are paid within the time so specified all the  
rights and interests of the persons from whom they are due shall remain in  
force.

3. This Proclamation may be cited as Schedule  
Form of Re-acceptance  
Re-accepted under Proclamation for (Insert  
increased sum)

Signature  
Date

and to be payable on a date not earlier than the date of the  
original maturity and to be a bill for the original amount thereof by the  
amount of interest thereon calculated at

of re-acceptance to the new rate of interest.

2. The Federal Reserve Bank of New York is authorized to issue  
bills that no action shall be taken on any bill of exchange

from which payments of the following bills are due between

and under contracts or agreements made before

being accepted in respect of such, mortgage interest, taxes on property,

and interest on bonds, insurance premiums provided the same are not paid

before the expiry of thirty days of the date when they became due and

interest is, the same are not paid within the time so specified all the

rights and interests of the parties from whom they are due shall remain in

force.

3. 336

Doc.3.

GENERAL TRADING WITH THE ENEMY PROCLAMATION.

1. Proclamation No. (General Prohibition) is revoked as from..... without prejudice to any action properly taken thereunder.
2. On and after.....any person resident or carrying on business in the territory occupied by ( ) may lawfully enter into commercial, financial or other intercourse with, or for the benefit of any person or body of persons not being enemy as defined in this Proclamation and subject to due compliance with the provisions of any other relevant Proclamation or Proclamations.

TRADING WITH THE ENEMY AND MATTERS RELATING THERETO.

Prohibition  
of trading  
with the  
enemy.

3. (1) Any person who trades with or attempts to trade with an enemy within the meaning of this Proclamation shall be guilty of an offence of trading with the enemy and on conviction shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding , or to both such imprisonment and such fine and the court may order that any goods or money in respect of which the offence has been committed shall be forfeited to the military administration of -

- (2) For the purposes of this Proclamation a person shall be deemed to have traded with the enemy -

- (a) if he has had any commercial, financial or other intercourse or dealings with, or for the benefit of an enemy, and, in particular, but without prejudice to the generality of the foregoing provision, if he has -

- (i) supplied any goods to or for the benefit of an enemy, or obtained any goods from an enemy, or traded in, or carried, any goods consigned to or from an enemy or destined for or coming from enemy territory, or
- (ii) paid or transmitted any money, negotiable instrument or security for money to or for the benefit of an enemy or to a place in enemy territory, or
- (iii) performed any obligation to, or discharged any obligation of, an enemy, whether the obligation was undertaken before or after the commencement of this Proclamation or

other intercourse or dealings with, or for the benefit of an enemy, and, in particular, but without prejudice to the generality of the foregoing provision, if he has -

- (i) supplied any goods to or for the benefit of an enemy, or obtained any goods from an enemy, or traded in, or carried, any goods consigned to or from an enemy or destined for or coming from enemy territory, or
- (ii) paid or transmitted any money, negotiable instrument or security for money to or for the benefit of an enemy or to a place in enemy territory, or
- (iii) performed any obligation to, or discharged any obligation of, an enemy, whether the obligation was undertaken before or after the commencement of this Proclamation or

(b) if he has done anything which, under the following provisions of this Proclamation, is to be treated as trading with the enemy, and any reference in this Proclamation to an attempt to trade with the enemy shall be construed accordingly;

Provided that a person shall not be deemed to have traded with the enemy by reason only that he has -

- (i) done anything under an authority given generally or specially by, or by any person authorised in that behalf by, the Chief Civil Affairs Officer or
- (ii) received payment from an enemy of a sum of money due in respect of a transaction under which all obligations on the part of the person receiving payment had been performed before the coming into force of this Proclamation.

(3) Any reference in this Article to an enemy shall be construed as including a reference to a person acting on behalf of an enemy.

(4) In any proceedings for an offence of trading with the enemy, the fact that any document has been despatched addressed to a person in enemy territory shall, unless the contrary is proved, be evidence, as against any person who was a party to the despatch of the document, that the person to whom the document was despatched was an enemy.

(5) A prosecution for an offence of trading with the enemy shall not be instituted except by, or with the consent of

Provided that this sub-Article shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remanding, in custody or on bail, of any person charged with such an offence, notwithstanding that the necessary consent to the institution of a prosecution for the offence has not been obtained.

4. (1) Subject to the provisions of this article, the expression "enemy" for the purposes of this Proclamation means -

Definition  
of enemy.

- (a) any State, or Sovereign of a State, at war with His Britannic Majesty,
- (b) any individual resident in enemy territory,
- (c) any body of persons (whether corporate or unincorporate) carrying on business in any place if and so long as the body is controlled by a person who is an enemy within the meaning of this Article,
- (d) any body of persons constituted or incorporated in, or under the laws of, a State at war with His Britannic Majesty, and
- (e) as respects any business carried on in enemy territory, any individual or body of persons (whether corporate or unincorporate) carrying on that business,

but does not include any individual by reasons only that he is an enemy subject.

(2) The Chief Civil Affairs Officer may by general or special licence published in the                      declare that any

unincorporate) carrying on business in any place if and so long as the body is controlled by a person who is an enemy within the meaning of this Article,

- (d) any body of persons constituted or incorporated in, or under the laws of, a State at war with His Britannic Majesty, and
- (e) as respects any business carried on in enemy territory, any individual or body of persons (whether corporate or unincorporate) carrying on that business,

but does not include any individual by reasons only that he is an enemy subject.

- (2) The Chief Civil Affairs Officer may by general or special licence published in the declare that any body of persons specified in paragraph (e) or paragraph (d) of sub-Article (1) shall not, for the purposes of this Proclamation, be deemed to be an enemy in respect of that part of the business which is carried on in the (occupied) territory, and may for reasons which appear to him adequate, amend, vary, rescind or revoke any such general or special licence by notice in the same manner.

- (3) The Chief Civil Affairs Officer, or some person authorised by him in that behalf, may, by order, direct that any person shall, for the purposes of this Proclamation, be deemed to be, while so specified, an enemy, and the names of the persons so specified shall be published in the

5. (1) No assignment of a chose in action made by or on behalf of an enemy shall, except with the sanction of the Chief Civil Affairs Officer, be effective so as to confer on any person any rights or remedies in respect of the chose in action and neither a transfer of a negotiable instrument by or on behalf of an enemy, nor any subsequent transfer thereof, shall, except with the sanction of the Chief Civil Affairs

Transfer of  
negotiable  
instruments  
and choses  
in action  
by enemies

Officer, be effective so as to confer any rights or remedies against any party to the instrument.

- (2) The preceding sub-Article shall apply in relation to any transfer of any coupon or other security transferable by delivery, not being a negotiable instrument, as it applies in relation to any assignment of a chose in action.

(3) If any person by payment or otherwise purports to discharge any liability from which he is relieved by this Article, knowing the facts by virtue of which he is so relieved, he shall be deemed to have thereby traded with the enemy.

Provided that in any proceedings for an offence of trading with the enemy which are taken by virtue of this sub-Article it shall be a defence for the defendant to prove that at the time when he purported to discharge the liability in question he had reasonable grounds for believing that the liability was enforceable against him by order of a competent court, not being either a court having jurisdiction in the territory or a court having jurisdiction in enemy territory, and would be enforced against him by such an order.

(4) Where a claim in respect of a negotiable instrument of chose in action is made against any person who has reasonable cause to believe that, if he satisfied the claim, he would be thereby committing an offence of trading with the enemy, that person may pay to the Custodian (alternatively, a person to be appointed by the Chief Civil Affairs Officer) any sum which, but for the provisions of sub-Article (i), would be due in respect of the claim and the payment shall for all purposes be a good discharge to that person.

(5) Nothing in this Article shall apply to securities to which the next following section applies.

Transfer and allotment of securities.

6. (1) If -

(a) any securities to which this article applies are transferred by or on behalf of an enemy, or

(b) any such securities, being securities issued by a company incorporated in the territory, are allotted or transferred to, or for the benefit of, an enemy subject without the consent of the Chief Civil Affairs Officer

then, except with the sanction of the Chief Civil Affairs Officer, the transferee or allottee shall not, by virtue of the transfer or allotment, have any rights or remedies in respect of the securities and no body corporate by whom the securities were issued or are managed shall take any cognisance of, or otherwise act upon, any such transfer except under the authority of the Chief Civil Affairs Officer.

(2) No share warrants, stock certificates or bonds, being warrants, certificates or bonds payable to bearer, shall be issued in respect of any securities to which this Article applies, being securities registered or inscribed in the name of an enemy or of a person acting on behalf of, or for the benefit of, an enemy.

(3) Any person who contravenes the provisions of this Article shall

with the enemy, that person may pay to the Custodian (alternatively, a person to be appointed by the Chief Civil Affairs Officer) any sum which, but for the provisions of sub-Article (i), would be due in respect of the claim and the payment shall for all purposes be a good discharge to that person.

(5) Nothing in this Article shall apply to securities to which the next following section applies.

6. (1) If -

Transfer and  
allotment of  
securities.

(a) any securities to which this article applies are transferred by or on behalf of an enemy, or

(b) any such securities, being securities issued by a company incorporated in the territory, are allotted or transferred to, or for the benefit of, an enemy subject without the consent of the Chief Civil Affairs Officer

then, except with the sanction of the Chief Civil Affairs Officer, the transferee or allottee shall not, by virtue of the transfer or allotment, have any rights or remedies in respect of the securities and no body corporate by whom the securities were issued or are managed shall take any cognizance of, or otherwise act upon, any such transfer except under the authority of the Chief Civil Affairs Officer.

(2) No share warrants, stock certificates or bonds, being warrants, certificates or bonds payable to bearer, shall be issued in respect of any securities to which this Article applies, being securities registered or inscribed in the name of an enemy or of a person acting on behalf of, or for the benefit of, an enemy.

(3) Any person who contravenes the provisions of this Article shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding \_\_\_\_\_ or to both such imprisonment and such fine.

(4) This Article applies to the following securities, that is to say, annuities, stock, shares, bonds, debentures or debenture stock registered or inscribed in any register, branch register or other book kept in the territory.

Purchase  
of enemy  
currency

7. (1) Purchasing enemy currency shall be treated as trading with the enemy.

(2) In this section the expression "enemy currency" means any such notes or coins as circulate as currency in enemy territory, or any such other notes or coins as are for the time being declared by an order of the Chief Civil Affairs Officer to be enemy currency.

Inspection  
Supervision  
and Control  
of Businesses

8. (1) The Chief Civil Affairs Officer if he thinks it expedient for discovering or preventing any breach of this Proclamation so to do, may by

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/written

written order authorize a specified person (hereinafter referred to as a Compliance Officer) to inspect any books or documents belonging to, or under the control of, any person named in the order, and to require that person and any other person to give such information in his possession with respect to any business carried on by the named person as the inspector may demand, and for the purposes aforesaid to enter on any premises used for the purposes of that business.

(2) If it appears to the Chief Civil Affairs Officer that it is expedient for securing compliance with this Proclamation, that any business should be subject to supervision, he may authorize a Compliance Officer to supervise the business, with such powers as the Chief Civil Affairs Office may determine.

(3) Further, if it appears to the Chief Civil Affairs Officer that it is expedient that any business which is being carried on in the territory by, or on behalf of or under the direction of persons who are enemies or enemy subjects or appear to the Chief Civil Affairs Officer to be associated with enemies, the Chief Civil Affairs Officer may, if he thinks it expedient so to do, by order prohibit the carrying on of the business either wholly or for such purposes and under such conditions as may be specified in the order. For the purpose of carrying out the order the Chief Civil Affairs Officer may appoint a controller to control and supervise the carrying out of the order and may confer on the controller any powers which the Chief Civil Affairs Officer may think necessary or convenient for the purpose of giving full effect to the order.

(4) If any person, without reasonable cause, fails to produce for inspection, or furnish, to a Compliance Officer any document or information which he is duly required by that Officer so to produce or furnish, that person shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding

or to both such imprisonment and such fine.

(5) If any person, with intent to evade the provisions of this Article, destroys, mutilates or defaces any book or other document which a Compliance Officer is or may be authorised under this Article to inspect, that person shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding or to both such imprisonment and such fine.

(6) If any person contravenes or fails to comply with the provisions of any order made under sub-Article 3 of this Article he shall be guilty of the offence of trading with the enemy.

9. (1) For the purposes of this Proclamation the following expressions have the meanings respectively assigned to them:-

"enemy subject" means -

enemies, the Chief Civil Affairs Officer may, if he thinks it expedient so to do, by order prohibit the carrying on of the business either wholly or for such purposes and under such conditions as may be specified in the order. For the purpose of carrying out the order the Chief Civil Affairs Officer may appoint a controller to control and supervise the carrying out of the order and may confer on the controller any powers which the Chief Civil Affairs Officer may think necessary or convenient for the purpose of giving full effect to the order.

(4) If any person, without reasonable cause, fails to produce for inspection, or furnish, to a Compliance Officer any document or information which he is duly required by that Officer so to produce or furnish, that person shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding or to both such imprisonment and such fine.

(5) If any person, with intent to evade the provisions of this Article, destroys, mutilates or defaces any book or other document which a Compliance Officer is or may be authorised under this Article to inspect, that person shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding or to both such imprisonment and such fine.

(6) If any person contravenes or fails to comply with the provisions of any order made under sub-Article 3 of this Article he shall be guilty of the offence of trading with the enemy.

9. (1) For the purposes of this Proclamation the following expressions have the meanings respectively assigned to them:-

"enemy subject" means -

(a) an individual who, not being a British subject or a British protected person or the subject of a Power allied to His Britannic Majesty, possesses the nationality of a State at war with His Britannic Majesty, or

(b) a body of persons constituted or incorporated, in or under the laws of any such State; and

"enemy territory" means -

(a) any area which is under the sovereignty of or in the occupation of a power with whom His Majesty is at war not being an area in the occupation of His Majesty or of a Power allied to His Majesty, or

(b) any area which the Chief Civil Affairs Officer may by order direct to be treated for purposes of this Proclamation as enemy territory

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"the territory means -

that part of the territory of for the time being occupied by His Britannic Majesty's forces or the forces of a Power Allied to His Majesty.

(2) A certificate from the Chief Civil Affairs Officer that -

(a) any area is or was under the sovereignty of, or in the occupation of any Power as to the time at which any area became or ceased to be under such sovereignty or in such occupation, or

(b) that any area is or was in the occupation of His Britannic Majesty's forces or of the forces of a Power allied to His Majesty as to the time at which any area was in such occupation,

shall, for the purposes of proceedings under or arising out of this Proclamation, be conclusive evidence of the facts stated in the certificate.

#### GENERAL AND SUPPLEMENTARY PROVISIONS.

10. Any person who -

(a) for the purpose of obtaining any authority or sanction under this Proclamation, or in giving any information for the purposes of this Proclamation or of any order made thereunder, knowingly or recklessly makes a statement which is false in material particular;

(b) willfully obstructs any person in the exercise of any powers conferred on him by this Proclamation or by any order made thereunder,

False  
statement  
and  
obstruction.

shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding or to both such imprisonment and such fine.

11. Where any offence under this Proclamation committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and published accordingly.

Offences by  
Corporations

12. Any document stating that any authority or sanction is given under any of the provisions of this Proclamation by the Chief Civil Affairs Officer and purporting to be signed on his behalf shall be evidence of the facts stated in the document.

Evidence of  
authority of  
sanction of  
the Military  
Administrator.

13. This Proclamation may be cited as the Trading with the Enemy Proclamation.

GENERAL AND SUPPLEMENTARY PROVISIONS.

10. Any person who -

False  
statement  
and  
obstruction.

(a) for the purpose of obtaining any authority or sanction under this Proclamation, or in giving any information for the purposes of this Proclamation or of any order made thereunder, knowingly or recklessly makes a statement which is false in material particular;

(b) wilfully obstructs any person in the exercise of any powers conferred on him by this Proclamation or by any order made thereunder,

shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding or to both such imprisonment and such fine.

Offences by  
Corporations

11. Where any offence under this Proclamation committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Evidence of  
authority of  
sanction of  
the Military  
Administrator.

12. Any document stating that any authority or sanction is given under any of the provisions of this Proclamation by the Chief Civil Affairs Officer and purporting to be signed on his behalf shall be evidence of the facts stated in the document.

13. This Proclamation may be cited as the Trading with the Enemy Proclamation.

Document 4.IMPORTATION AND EXPORTATION OF GOODS LICENSINGPROCLAMATION

1. The General Officer Commanding His Britannic Majesty's Forces in [ ] hereby directs that no goods shall be imported into the territory nor shall any goods be exported from the territory except under a licence given generally or specifically by the Chief Civil Affairs Officer and subject to such conditions as he may impose.
2. The Chief Civil Affairs Officer may for reasons which appear to him to be adequate, amend, vary, rescind or revoke any such general or specific licence at any time or the conditions under which any such licence was granted.
3. Anything authorised to be done under this Proclamation by the Chief Civil Affairs Officer may be done either by the Chief Civil Affairs Officer or by one of his assistants acting on his behalf.
4. If any person contravenes or fails to comply with the terms of this Proclamation or of a licence issued under this Proclamation he shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding three times the value of the goods or to both such imprisonment and such fine.
5. For the purposes of Article 4 of this Proclamation any attempt to import or to export goods in contravention of or without compliance with this Proclamation shall be treated as though the goods had in fact been imported or exported in contravention of or without compliance with this Proclamation.
6. Any goods which are imported or exported otherwise than in compliance with this Proclamation or the importation or exportation of which is attempted otherwise than in compliance with this Proclamation shall, on the authority of the Chief Civil Affairs Officer be forfeited to the Military Administration of [ ]
7. This Proclamation may be cited as the Importation and Exportation of Goods Licensing Proclamation.

Alternatively to Article 1.

1. The General Officer Commanding His Britannic Majesty's Forces in [ ]

such licence was granted.

3. Anything authorised to be done under this Proclamation by the Chief Civil Affairs Officer may be done either by the Chief Civil Affairs Officer or by one of his assistants acting on his behalf.

4. If any person contravenes or fails to comply with the terms of this Proclamation or of a licence issued under this Proclamation he shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding three times the value of the goods or to both such imprisonment and such fine.

5. For the purposes of Article 4 of this Proclamation any attempt to import or to export goods in contravention of or without compliance with this Proclamation shall be treated as though the goods had in fact been imported or exported in contravention of or without compliance with this Proclamation.

6. Any goods which are imported or exported otherwise than in compliance with this Proclamation or the importation or exportation of which is attempted otherwise than in compliance with this Proclamation shall, on the authority of the Chief Civil Affairs Officer be forfeited to the Military Administration of        7

7. This Proclamation may be cited as the Importation and Exportation of Goods Licensing Proclamation.

Alternatively to Article 1.

1. The General Officer Commanding His Britannic Majesty's Forces in        hereby directs that no goods other than those of the classes or descriptions set out in the First Schedule to this Proclamation shall be imported into the territory, nor shall any goods other than those of the classes or descriptions set out in the Second Schedule to this Proclamation be exported from the territory except under a licence given generally or specifically by the Chief Civil Affairs Officer and subject to such conditions as he may impose.

1A. The Schedules to this Proclamation may be added to, varied, amended or rescinded by Proclamation as from time to time be considered necessary.

Document 5.ENEMY PROPERTY PROCLAMATION

1. (1) There is hereby constituted, under the Chief Civil Affairs Officer, the office of Custodian of Enemy Property and the Person appointed to the office of Custodian shall exercise the powers and duties herein set forth.  
(2) Anything required or authorized to be done under this Proclamation by the Custodian may be done either by the Custodian or by one of his assistants or by any other person authorized in that behalf by the Custodian or one of his assistants.
2. (1) The Custodian is hereby authorized to exercise on behalf of any enemy or enemy subject who is not physically present and at large in the territory in relation to any property or business of which such enemy or enemy subject is the owner, (hereinafter referred to as "enemy property" or "enemy business") all or any of the powers of the owner as if the Custodian were the holder of a general power of attorney in relation thereto, and there is hereby vested in the Custodian all the rights and interests of such an enemy or enemy subject in such enemy property or business.  
(2) Notwithstanding any claim by any person to be the owner of any property or business or to be the agent or attorney of such owner, if the Custodian is not satisfied that such a person is the owner or is properly authorized to act as agent or attorney or is a fit and proper person to continue to act as an agent or attorney, as the case may be, the Custodian may decide at his discretion to exercise the powers of the owner in regard to the whole or part of such property and shall notify such person in writing of that decision and thereafter any act of such person in relation to any such property shall be deemed to be null and void and of no legal effect whatsoever, and the Custodian may exercise over such property or business the same powers as he may exercise over an enemy property or business.

- (3) Without prejudice to the generality of the foregoing provisions of this proclamation the powers of the Custodian shall include authority to:

- a) collect any debts or other sums due to any owner of enemy property or business;
- b) sell by public auction, tender or otherwise, to any

General Power  
of Custodian.

Further  
Definition of  
Powers of  
Custodian.

any enemy or enemy subject who is not physically present and at large in the territory in relation to any property or business of which such enemy or enemy subject is the owner, (hereinafter referred to as "enemy property" or "enemy business") all or any of the powers of the owner as if the Custodian were the holder of a general power of attorney in relation thereto, and there is hereby vested in the Custodian all the rights and interests of such an enemy or enemy subject in such enemy property or business.

(2) Notwithstanding any claim by any person to be the owner of any property or business or to be the agent or attorney of such owner, if the Custodian is not satisfied that such a person is the owner or is properly authorized to act as agent or attorney or is a fit and proper person to continue to act as an agent or attorney, as the case may be, the Custodian may decide at his discretion to exercise the powers of the owner in regard to the whole or part of such property and shall notify such person in writing of that decision and thereafter any act of such person in relation to any such property shall be deemed to be null and void and of no legal effect whatsoever, and the Custodian may exercise over such property or business the same powers as he may exercise over an enemy property or business.

(3) Without prejudice to the generality of the foregoing provisions of this proclamation the powers of the Custodian shall include authority to:

- a) collect any debts or other sums due to any owner of enemy property or business;
- b) sell by public auction, tender or private treaty any perishable goods, furniture, trade stocks, live stocks, produce or growing crops of the property or business;
- c) grant temporary leases of any enemy property limited to the duration of the military occupation of the territory;
- d) make arrangements for the carrying on or the winding-up of any enemy business;
- e) maintain, retain, or remove to safe custody any enemy property;

Further  
Definition of  
Powers of  
Custodian.

- f) pay any rates, taxes or other imposts or liabilities which in his opinion are due in respect of any enemy property or business;
- g) make any other disbursements which he may deem necessary or proper;
- h) acquire and hold any property movable or immovable
- i) enter into any contracts;
- j) execute any deed;
- k) take immediate possession of any enemy property or business and for this purpose to enter any premises, compound or settle any claims, require any person to furnish such returns, accounts and other information and to produce such documents as the Custodian considers necessary, and generally take all such action as he considers expedient for the purpose of administering any enemy property or business vested in him.

l) sue or be sued under the name of the Custodian.

Custodian to act in the interest of owner as far as may be.

(4) In the exercise of any powers conferred on him by this Proclamation the Custodian shall act in the interest of the owner of the enemy property or business in so far as it is compatible for him to do so having regard to any law in force to the contrary and any orders and demands made from time to time by the General Officer Commanding in pursuance of the laws and usages of war relating to the rights of a power occupying enemy territory.

(5) The Chief Civil Affairs Officer may, by a general or special authority, direct the Custodian as regards any particular money paid to him under this Proclamation or any enemy property or business held or managed by him or on his behalf to pay over such money or transfer any such property or business to or for the benefit of the person who but for this Proclamation would have been entitled thereto or to any person appearing to the Custodian to be authorised by such person to receive the same.

(6) Notwithstanding the other provisions of this Proclamation the Custodian may inspect, supervise, regulate or exercise any other control over any enemy property or business in such manner as may be necessary to carry out any instructions given to him from time to time by the General Officer Commanding for the purpose of exercising on behalf of the General Officer Commanding

Custodian to act in the interest of owner as far as may be.

1) sue or be sued under the name of the Custodian.

(4) In the exercise of any powers conferred on him by this Proclamation the Custodian shall act in the interest of the owner of the enemy property or business in so far as it is compatible for him to do so having regard to any law in force to the contrary and any orders and demands made from time to time by the General Officer Commanding in pursuance of the laws and usages of war relating to the rights of a power occupying enemy territory.

(5) The Chief Civil Affairs Officer may, by a general or special authority, direct the Custodian as regards any particular money paid to him under this Proclamation or any enemy property or business held or managed by him or on his behalf to pay over such money or transfer any such property or business to or for the benefit of the person who but for this Proclamation would have been entitled thereto or to any person appearing to the Custodian to be authorised by such person to receive the same.

(6) Notwithstanding the other provisions of this Proclamation the Custodian may inspect, supervise, regulate or exercise any other control over any enemy property or business in such manner as may be necessary to carry out any instructions given to him from time to time by the General Officer Commanding for the purpose of exercising on behalf of the General Officer Commanding any right vested in him in pursuance of the laws and usages of War relating to the occupation of enemy territory.

Indemnity.

(7) The Custodian or any assistant or any person authorised by them shall not be personally liable for any act done or omission made by him or on his behalf in relation to any enemy property or business in the exercise or purported exercise of any powers conferred upon him under this Proclamation and he is absolutely indemnified in regard to any such act or omission as aforesaid.

Saving.

(8) Nothing in this Proclamation contained shall affect any public property whether movable or immovable or any right title or interest in private property which was vested in the State prior to the date of the occupation of the territory by His Majesty's Forces.

Regulations and Fees.

(9) The Chief Civil Affairs Officer may make regulations for the better carrying out of the provisions of this Proclamation and in particular may prescribe a scale of fees which may be charged in respect of any services rendered by the Custodian on behalf of the owner of any enemy property or business and any such fees may be recovered by the Custodian out of any assets in hand belonging to such owner.

Liability to Report to Custodian.

(10) Any person within the territory who

- a) holds any money or property which but for this Proclamation would be the property of an enemy or enemy subject who is not physically present and at large in the territory; or
- b) manages any enemy business or property; or
- c) owes or but for this Proclamation or the existence of a state of War would owe any debt to such an enemy or enemy subject

shall report the fact within 14 days of this Proclamation to the Custodian and shall not, without his consent, transfer, part with or otherwise deal with the property of any such enemy, and any such dealing or transfer shall be null and void.

Liability to pay money and debts to the Custodian.

(11) Any money which but for this Proclamation or the existence of a state of War would be the property of, or due to be paid to, an enemy or enemy subject who is not physically present and at large in the territory, shall be paid to the Custodian within such time as he may direct and his receipt shall be a valid discharge for the amount shown on such receipt.

Penalties.

(12) (1) If any person fails to comply with the provisions of Articles 9 or 10 of this Proclamation he shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \_\_\_\_\_ or to both such imprisonment and such fine and any payment or dealing shall be void.

(2) If any person, without reasonable cause, fails to produce or furnish, in accordance with the requirements of Article 9, any document or information he is required to produce or furnish, he shall be liable on conviction to a fine not exceeding \_\_\_\_\_ for every day on which the default continues.

(13) Where any offence under this Proclamation committed by a

- c) owes or but for this Proclamation or the existence of a state of War would owe any debt to such an enemy or enemy subject

shall report the fact within 14 days of this Proclamation to the Custodian and shall not, without his consent, transfer, part with or otherwise deal with the property of any such enemy, and any such dealing or transfer shall be null and void.

Liability to pay money and debts to the Custodian.

(11) Any money which but for this Proclamation or the existence of a state of War would be the property of, or due to be paid to, an enemy or enemy subject who is not physically present and at large in the territory, shall be paid to the Custodian within such time as he may direct and his receipt shall be a valid discharge for the amount shown on such receipt.

Penalties.

(12) (1) If any person fails to comply with the provisions of Articles 9 or 10 of this Proclamation he shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \_\_\_\_\_ or to both such imprisonment and such fine and any payment or dealing shall be void.

(2) If any person, without reasonable cause, fails to produce or furnish, in accordance with the requirements of Article 9, any document or information he is required to produce or furnish, he shall be liable on conviction to a fine not exceeding \_\_\_\_\_ for every day on which the default continues.

(13) Where any offence under this Proclamation committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(14) For the purpose of this Proclamation "enemy" and "enemy subject" shall have the same meaning as in the Trading with the Enemy Proclamation.

The following has been approved for <sup>Certain</sup> occupied enemy territories in Africa only. Specific authority must be obtained before any departure from the Manual of Military Law is made in any other territory.

THE TREATMENT OF ENEMY PROPERTY IN C.T.

(References are to Land War Regulations).

SECTION ONE:

Prope ty which can be classified clearly as either public or private.

I. Private Movable Property. This may be divided into two classes:-

- (a) Unitions of War. It is essentially to seize such property without making immediate payment. The articles are required to be restored at the conclusion of peace, or an indemnity must be paid for them. The party responsible for paying the indemnity will be named in the peace settlement (Art. 53, Par. 2). This procedure will be followed, in such articles as structural steel, heavy machinery, and building materials will be included under this heading. (I.C. telegram No. 75659 (T.1).) is far as possible records will be maintained so that the owners will be in a position to claim indemnity in due course.

- (b) Property not susceptible of direct military use. According to law this may be requisitioned by the Army of Occupation and payment shall be made as soon as possible. (Art. 52). Payment will be made both retrospectively and in future where owners are still present. (I.C. telegram No. 75659 (T.1).) where an owner is not present the Custodian will record a charge against the Army, on behalf of the absent owner, but no cash payment will be made by the Army.

- II. Private Immovable Property. This may be requisitioned and made use of, and neither rent nor compensation may be claimed. It is agreed that rent will be paid to owners who are still present in the territory, in order to avoid hardship. (I.C. telegram No. 65412 of 5/5). where an owner is not present the Custodian will keep records of the property so taken over, in order that the owner may be in a position to claim compensation at the close of hostilities in the event of funds being made available.

- III. The decision to make payment to owners who are present (I-b and II) may be understood to include payment to the wives and families of absent owners where this appears to be justified by the circumstances.

- IV. Such property may belong to a company, state or all of the shareholders being absent from the territories. Local discretion is granted to make payments, even where no payment can be claimed, (either in full or in part, in which case the balance due would be recorded) where circumstances make it advisable, e.g. where the business cannot otherwise continue to operate.

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(2.) Property not susceptible of direct military use. According to law this may be requisitioned by the Army of Occupation and payment should be made as soon as possible. (Art. 52). Payment will be made with retroactivity and in future where owners are still present. (M.O. telegram No. 75659 (P. 1).) Where an owner is not present the Custodian will record a charge against the Army, on behalf of the absent owner, but no cash payment will be made by the Army.

II. Private Immovable Property. This may be requisitioned and made use of, and neither rent nor compensation may be claimed. It is agreed that rent will be paid to owners who are still present in the territory, in order to avoid hardship. (M.O. telegram No. 65142 of 5/5). Where an owner is not present the Custodian will keep records of the property so taken over, in order that the owner may be in a position to claim compensation at the close of hostilities in the event of funds being made available.

III. The decision to make payment to owners who are present (I-b and II) may be unrestricted to include payment to the wives and families of absent owners where this appears to be justified by the circumstances.

IV. Such property may belong to a company, bank or all of the shareholders being absent from the territories. Local discretion is granted to make payments, even where no payment can be claimed, (either in full or in part, in which case the balance due would be recorded) where circumstances make it advisable, e.g. where the business cannot otherwise continue to operate. Where the business in question is operated by the Custodian, in the place of the absent owner, no payment will be made, but records will be kept for future possible settlement.

V. Public Immovable Property. Such as cash, set res, rolling stock, etc. This may be seized, and no payment need be made. (Art. 53). This procedure will be followed.

VI. Public Immovable Property.

(a) Of a military character (forts, dockyards, etc.) is absolutely in the hands of the occupant for the duration of the war.

(b) Of a non-military character (public buildings, farms, mines) may be used by the occupant, but only as usufructuary. (Art. 55).

This procedure will be followed, and no payment will be made in respect of such property.

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SECTION TWO: Property which cannot be classified clearly as public or private.

I. Where there is any doubt whether certain property is public or private, as may frequently occur in the case of stores and supplies obtained from contractors, it should be considered to be public property unless and until its private character is distinctly proved.

II. Parastatal Institutions, General. The term "Parastatal" has been found to be misleading, as it covers not only State concerns but those which are partly state and partly private concerns. It is not possible at this stage to classify them accurately, except in a very few cases, nor to determine the extent of private interests where they are known to exist.

In order that suitable records may be maintained against the time when it is possible to ascertain ownership and consider claims from private persons, all such institutions will be placed in the hands of the Custodian of Enemy Property, whether any interested parties are present in the territory or not. (T.O. telegram No. 75653(T.1.)).

III. Parastatal Businesses.

(a) Where the business continues to operate.

Where it is desirable that such a business should function for the benefit of the Army or of the territory, the net sums payable to or due from O.E.F.s under the agreement made with the concern appointed to run the business, will be put through the accounts of the Custodian, who will be responsible for maintaining such records of the property concerned as will enable subsequent claims to be considered and for recording any net balances and not deficits accruing. The method of running the businesses will be decided by the competent authority locally, who will seek advice from the War Office if necessary.

In the event of profits accruing he will only pay out money to private persons if their claim to an interest is beyond doubt, if they are resident in the territory, and if the income is necessary to them in order to prevent hardship. This privilege may be extended to the wives and families of absent owners at discretion.

Where the Army or O.E.F.s make use of such a business (by purchasing its products, etc.) a charge will be recorded on a minimum basis only, and in no case will any actual cash payment be made.

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In order that suitable records may be maintained against the time when it is possible to ascertain ownership and consider claims from private persons, all such institutions will be placed in the hands of the Custodian of Enemy Property, whether any interested parties are present in the territory or not. (U.O. telegram No. 75659(F.1.)).

### III. Parastatal Businesses.

(a) Where the business continues to operate.

Where it is desirable that such a business should function for the benefit of the Army or of the territory, the net sums payable to or due from C.E.P. under the agreement made with the concern appointed to run the business, will be put through the accounts of the Custodian, who will be responsible for maintaining such records of the property concerned as will enable subsequent claims to be considered and for recording any net balances and net deficits accruing. The method of running the businesses will be decided by the competent authority locally, who will seek advice from the War Office if necessary.

In the event of profits accruing he will only pay out money to private persons if their claim to an interest is beyond doubt, if they are resident in the territory, and if the income is necessary to them in order to prevent hardship. This privilege may be extended to the wives and families of absent owners at discretion.

Where the Army or C.E.P. make use of such a business (by purchasing its products, etc.) a charge will be recorded on a valuation basis only, and in no case will any actual cash payment be made.

If as a result of this procedure the business is short of the funds it needs in order to operate an advance will have to be made to it by the Custodian, who will in turn obtain funds for this purpose from the C.E.P. if necessary.

The Custodian, who will have a credit account with the C.E.P., will not hold a reserve of cash, but will only retain enough for his current cash requirements.

(b) Where the business ceases to operate.

Where the business is not required to operate for the benefit of the Army or of the territory, the Custodian will either liquidate it and take charge of the assets, or allow it to continue on a care and maintenance basis, whichever course he considers better.

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IV. Movable Property of a Parastatal Business.

Such property will be treated as though it were State property, and therefore liable to seizure by the Army, without payment, but the Custodian will maintain records of any property so taken over in order that in the event of subsequent claims by private persons being proved, it will be possible to settle them.

There will be co-operation between the Army and O.T.A. to ensure that the property of a business in operation will not be requisitioned if such a course would interfere with the running of the business.

Local discretion is granted to make payments, under the conditions outlined in III(a) above, to private owners.

V. Immovable Property of a Parastatal Business.

All such property will be treated as though it were State property and therefore liable to be used by the Army if necessary.

There will be co-operation between the Army and O.T.A. as in IV above.

Local discretion is granted to pay rentals to private persons as in III(a) above.

NOTE: Where damage is done to private movable or immovable property in the course of military operations or on the orders of our own forces, in pursuance of the "scorched earth" policy, care should be taken to avoid any promise of compensation to the owners. The answer to any enquiries from private owners must be that the question of compensation cannot be decided until after the conclusion of the War.