

## THE SPOLIATION OF BELGIUM

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Trial Brief

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### Legal References

#### 1. Article 6 (b) of the Charter.

War Crimes. "Namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of, or in, occupied territory, \*\*\* plunder of public or private property, \*\*\* devastation not justified by military necessity."

#### 2. Hague Regulations, 1907, Section III

Article 43. "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."

Article 46. "Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected."

"Private property cannot be confiscated."

Article 52. "Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in the operations of the war against their country."

"Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied."

"Contributions in kind shall, as far as possible, be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible."

Article 53. "An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for the operation of the war."

"All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depots of arms and, generally, all kinds of munitions of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made."

#### 3. The laws and customs of war

#### 4. Texts:

Feilchenfeld, The International Economic Law of Belligerent Occupation Washington (1942)

Garner, International Law and the World War, Vol. II. (1920)

Spaight, War Rights on Land (1911)

## STATEMENT OF EVIDENCE

### I.

THE NAZI CONSPIRATORS PLANNED IN ADVANCE OF THE INVASION TO EXPLOIT THE BELGIAN ECONOMY IN THE GERMAN INTEREST TO THE FULLEST EXTENT POSSIBLE.

In January 1940 Germany's raw material position was critical. The situation was "so serious", General Thomas was convinced, that everything had to be sacrificed to fulfill Hitler's armament programs "or Germany would be faced with the necessity of capitulation". (EC 365, Notes of General Thomas on meeting with General Keitel, 15 January 1940).

The solution decided upon was to rely on the resources of the territories to be overrun in the forthcoming campaign in the West. "Hitler was convinced", Goering advised General Thomas, "that a big offensive in the West would bring Belgium, Holland and Northern France under German control and exploitation of the industries in Douai and Lens, Luxembourg, Longwy and Briey would yield sufficient raw materials to supplement Swedish imports. Because of this Hitler had decided to sacrifice recklessly all raw material reserves with regard to the future in order to force a decisive victory in 1940... The policy therefore was to get everything possible out of these occupied countries and sacrifice all reserves of raw materials planned to cover future needs". (EC 365, supra).

### II.

DURING THE OCCUPATION, THE NAZI CONSPIRATORS OBTAINED FROM BELGIUM SUBSTANTIAL QUANTITIES OF MATERIALS AND EQUIPMENT FOR USE IN THE GERMAN WAR EFFORT BOTH IN BELGIUM AND IN GERMANY, ALL OF WHICH WAS PAID FOR, NOT BY GERMANY, BUT BY BELGIUM.

A. The Nazi conspirators obtained from Belgium large quantities of vital materials and equipment of value to the German war effort, much of which was exported to Germany.

1. Hitler's directive was faithfully executed. During the period of the occupation, Belgian exports to Germany amounted to 4,115,000,000 RM, while Germany's exports to Belgium for the same period amounted to only 1,225,000,000 RM

(EC H 1, Final Report of the Military Commander, 1945, hereinafter referred to as "Final Report", part 10, section 1, p 22). A large part of the Belgian raw material production, moreover, was consumed in local manufacture in the German interest. In 1941, for example, the total coal produced in Belgium in the German interest was 8,211,000 tons, of which 5,878,000 were exported to Germany; textiles of a value of 247,000,000 RM were produced in the German interest, of which textiles valued at 149,500,000 RM were shipped to Germany ( EC H 23, Report of the Military Administration for 1941, pp 13, 17).

2. The importance of the Belgian production to the German war effort in 1941, for example, is clearly shown in a report of the Military Commander of 1 March 1942 on the "Belgian contribution to the German war economy", illustrating with graphic charts the significant quantities of coal, iron and steel products, textiles and other products produced in Belgium in the German interest (id).

6) The money required to finance these acquisitions was obtained not from Germany, but from Belgium and its nationals.

1. The occupation charges levied by Germany amounted, as of 31 July 1944, to 65,498,000,000 Bfrs =s 5,239,800,000 RM. (EC R 173, Report of the Commissar at the National Bank, 15 August 1944). The "credit" balance of the Belgian Emission Bank under the German central clearing system as of the same date amounted to 60,837,000,000 Bfrs =s 4,867,000,000 RM (id). To these sums must be added 545,700,000 RM the value of the gold of the Belgian National Bank confiscated by Germany in 1942 (EC R 149, 3rd Annual Report of the Commissar at the National Bank, 5 June 1943) and additional sums of gold and foreign exchange required to be surrendered by German order (see infra, p ).

2. In 1941 the Belgian financial contribution to Germany amounted to more than the total wage payments of the working population of Belgium. (EC 253, Report of the Military Commander on the "Belgian contribution to the German War



Economy", 1 March 1942). In 1942, the Belgian financial contribution amounted to 1/2 of the total Belgian national income (EC 333-1, Report of the Military Commander, ). For the period May 1942/1943, it amounted to more than 2/3's of the Belgian national income (EC R 149, 3rd Annual Report of the Commissar at the National Bank, 5 June 1943, p ).

### III.

THE MATERIALS AND EQUIPMENT "CONTRIBUTED" BY BELGIUM TO THE GERMAN WAR EFFORT WERE OBTAINED BY CONTROLLING AND DIRECTING ALL BELGIAN PRODUCTION AND DISTRIBUTION IN ACCORDANCE WITH THE DIRECTIVES OF THE NAZI CONSPIRATORS.

A. The Nazi conspirators ordered Belgian nationals to produce and distribute materials and equipment in accordance with German war requirements.

1. The results described above were obtained by careful planning of the central ministries in Berlin and ruthless execution of the adopted plans by their representatives and the Military Administration in Belgium. Production quotas for coal, iron and steel, textiles and leather and other products were fixed by the Ministry of Economics and its Reichsstellen, in some cases after consultation with the Reich Minister (Funk) (EC H 2, Document on Economic Planning, Military Commander, 13 September 1940, pp 118, 127, 129, 157, 173).

2. Comprehensive production controls were established in Belgium to assure the fulfilment of these quotas. Pursuant to plans developed in advance of the invasion (EC 155, Collection of Planned Decrees for Military Government in Economic Affairs, pp 1, 27), a decree was issued by the Military Commander on 27 May 1940, creating so-called "Goods Offices", endowed with authority to issue general and special orders to Belgian firms requiring production of designated products and the sale thereof to designated sellers, and with the further power to prohibit production or sale without license (VOBL p 37). By decree of the Military Commander of 29 April 1941, the appointment of a commissar to direct operations of private plants was authorized (VOBL, p 599).

3. The German Goods Offices (EC H 3, Final Report, part 11, section 1, p 14), were transferred to similar units established by Belgian decree of 3 September 1940. (Whether this decree was issued on German order or suggestion does not appear). The Germans supervised the Belgian Goods Offices and adopted as German orders both the Belgian decree establishing the Offices and the orders issued thereunder, and prescribed punishment by fine and imprisonment for violations. (VOBL, p 295).

4. For the first two years of the occupation, German control was exercised mainly through prohibitions and restrictions, that is, by a priority system (EC H 4, 1st Annual Report of the <sup>Commander</sup> Military Administration, 15 July 1941, pp C 90, C 94, C 98), although even then important sectors of the Belgian economy, noticeably textiles and leather products, were controlled by "positive" orders directing the amount in kind to be produced and the persons to whom distribution must be made (EC H 4, 1st Annual Report of the Military Commander, pp C 105, C 106; EC H 2, Document on Economic Planning, 13 September 1940, pp 174-175). During this period the Military Commander issued <sup>through</sup> instructions to the Goods Offices through "command channels", <sup>ie, then</sup> to the Belgian Minister of Economics (EC H 3, Final Report, part 11, section 1, p 14).

5. On 6 August 1942, the Military Commander, however, published a decree reaffirming explicitly the power to compel production of designated articles (VOBL 986), a signal for the introduction of "positive" controls. In 1943, on instructions from the Reich Ministry of Economics, German representatives selected from the Reichsstelle were attached directly to the Goods Offices. (EC H 3, Final Report, part 11, section 1, p 14). And at the end of 1943, the office of the "Rüstungsobmann" of the Speer Ministry for Armaments and War Production began issuing "positive orders" for production to individual concerns directly, without clearing with the Goods Offices, pursuant to decree of the Minister for Armaments and War Production (Speer) (id., p 86)

6. Production facilities in Belgium which were not deemed to serve the German interest were shut down. By order of 30 March 1942, the Military Commander prohibited the enlargement of existing plants and the construction of new ones without German authorization, and provided for the closing down of factories in his discretion (VOBL 865). In the iron and metal industry alone at least 400 plants "not important for the war effort" had been closed down by 15 April 1943. (EC 335, Report of the Military Commander, January - March 1943, 15 April 1943, p D 37). By the end of the occupation, 1360 out of a total of 2164 plants in the textile industry had been closed down. (EC H 19, Final Report, part 11, section 2, paragraph 9, p 23).

7. Machinery and machine tools needed in Germany were freely requisitioned and shipped to the Reich. From December 1942 to the end of the occupation, out of 567 demands for machinery from Germany, 242 demands were met, of which 110 were met by requisitions. (EC H 10, Final Report, part 11, section 2, paragraph 5, p 57). In 79 instances the requisitioned equipment was shipped to Germany (id, p 57).

Support for such requisitions was found in the above mentioned order of 6 August 1942. This order was explained as embodying the "modern" German view that, as "total war is no longer limited in space but has become a struggle of peoples and nations against each other", requisitions under Article 52 of the Hague regulations should no longer be limited to the "needs of the occupying forces" but may also be used in the "general interest of the German war effort", and requisitioned articles may be used not only in the territory in which they were obtained but also "in other territories in the sphere of the occupying power" (EC H 10,



Final Report, part II, section 2, paragraph 5, p 57).

8. In this "modern" view, even church bells were at the conqueror's disposal. In 1943, the removal of the Belgian church bells, considered as early as 1941, was finally ordered by Hitler in January 1943 (EC H 12, Report of the Committee for the Protection of Art, undated, p ). The Belgians protested, invoking the Hague Regulations, and refused an offer to buy; thereupon the Germans requisitioned the bells against receipt (id).

The removal was carried out under the guidance of a representative of the Reichsstelle for Iron and Metals sent specially to Belgium to "mobilize" the bells for this purpose (id). By the end of September 1944, 3995 bells, weighing 3198 tons, had been removed (EC H 12, Report of the Committee for the Protection of Art, Military Government, p 70). A German graphic report on the progress of the "church bell drive in Belgium" of May 1944 is included herewith as evidence of German thoroughness in the conduct of "modern" war (EC H 13).

9. By circular letter, dated 23 June 1943, Speer ordered that scientific instruments and apparatus be taken out of the laboratories and research institutes in the occupied Western countries, directing that applications for instruments be made through channels and that the requisitions be made by the Military Government (EC H 14).

In many cases, representatives of German scientific institutions sought to acquire scientific instruments in order to modernize their own installations, appearing in Army uniforms to give the impression that the requisition was a military measure (EC H 15, Letter to Military Commander,

22 May 1944). The Military Government decided that paragraphs 52 and 56 of the Hague Regulations were inapplicable because the Allies had destroyed a number of German scientific installations in the Reich through bombing, which therefore had to be replaced from the occupied territories, and that "in a total war, no consideration could be given to the cited articles of the Hague Regulations" (EC H 16, Memorandum Military Government, Gruppe Kultur, 17 May 1944).

B. What could not be obtained through regulated channels was purchased on the Belgian "black market".

1. Notwithstanding the extensive German controls, some supplies could not be obtained through regulated channels. These were bought on the "black market". As early as October 1941, the Chief Intendant of the Military Administration and the Chief of the Armament Inspectorate in Belgium made arrangements to exploit the Belgian black market (EC H V, Final Report of UWA, for 13 March 1942 - 31 May 1943, p 1). By order of the Military Commander of 20 February 1942, all offers of sale from the black market to any German agency were required to be reported to a "Central Registration Office" created for the purpose, which checked the items offered for quality price and urgency and gave the necessary permit for the purchase (id, pp 2 - 3).

By order of Goering 13 June 1942, Colonel Veltjens was appointed to direct black market purchases in all occupied territories and a new agency, the so-called UWA, was placed at his disposal (EC H 7, Final Report UWA, pp 3 - 4), one branch of which operated in Belgium (EC H 7, Final Report of UWA, 13 March 1942 - 31 May 1943, p 5). The actual pur-

chases were made by several corporations, including Pimitex, an agency of the Speer Ministry of Armament and Munitions. The goods were distributed through Roges according to directives of the Central Planning Board (Speer, Korner, Milch) and in appropriate cases by the German Minister of Economics and the Reichsstellen (id, p 4).

In all, 595,600,000 RM were spent on this program and at prices up to five times the normal (id, p 17 - 18).

2. The black market constituted the "greatest danger for the Belgian currency and the economy" (EC R 149, Third Annual Report of the Commissar at the National Bank, 5 June 1943), but, notwithstanding repeated objections of the Belgians "on moral grounds", the Germans continued their activities until it no longer suited their purposes (id). Black market operations were abolished by order of Goering dated 2 April 1943, confirmed by circular of the Military Commander of 19 June 1943 (id, p 20; EC H 9, Circular of Military Commander Belgium, 19 June 1943).

3. Certain of the purchases made in Belgium through the black market while under the direction of Colonel Veltjens are of special interest:

a) Christmas Drive.

On 22 September 1942 Goering ordered a special drive in the Western occupied countries to purchase presents for the civil population in Germany for the coming Christmas. The total price paid in this drive amounted to 53,4 million Marks, including toys, cosmetics etc. The Roges company effected the distribution of the articles in Germany.

b) Special Drive WABO.

This drive was pursuant to Hitler's order to Speer to procure Christmas packages for the soldiers. The O.Todt Cantine accepted offers of sale on the black market and Pimitex did the buying, amounting to 5,2 million Marks. Roges financed the articles.

c) Special Drive BONIFA.

This drive was Speer's own program. The purchases were made by Pimitex, amounting to 4,1 million Marks. Roges effected the financing.

c) Special Drive LOWA. (Degenkolb locomotive program).

The purchases were made by Pimitex, amounting to 1,2 million Marks (id, pp 6 - 8).

The funds necessary for the black market operations were for a time obtained through the clearing (for explanation of the clearing system see below p ), but after 1 May 1942 were financed out of occupation costs (EC R 106, Report of the Commissar at the National Bank, 1 May 1942).

#### IV.

THE NAZI CONSPIRATORS COMPELLED BELGIUM AND ITS NATIONALS TO FURNISH THE MONETARY REQUIREMENTS FOR THE GERMAN EXPLOITATION OF THE BELGIUM ECONOMY, BY MEANS OF OCCUPATION LEVIES, FORCED LOANS, AND THE REQUISITION OF GOLD AND FOREIGN EXCHANGE IN AMOUNTS FAR IN EXCESS OF THE NEEDS OF THE OCCUPATION ARMY.

In the early period of the occupation, German monetary requirements were met through the issuance of certificates of the Reichskreditkassen (EC H 5, Final Report, part 9, p 34). In November 1940 the Emission Bank was ordered to



take up these certificates in exchange for Belgian francs (EC H 5, Final Report, part 9, p 112). Thereafter the requirements of the Germans in Belgium were financed through occupation levies and the Belgian - German clearing system.

A. The Nazi conspirators exacted excessive occupation charges from Belgium.

1. The Nazi conspirators demanded from Belgium both "internal occupation costs" and "external occupation costs" (EC R 32, inclosure, Office Four Year Plan to Military Commander in Belgium, 11 June 1941). The former was defined as "those sums which are gotten out of the country to finance the needs of the German military formations located in the country" (id). The term "external occupation costs" was used interchangeably with the title "anti-bolshevistic contribution" (EC 401, Office Four Year Plan to High Command of the Armed Forces, 8 July 1942).

2. The available records do not disclose any instance in which a contribution was collected explicitly under the heading of "external occupation costs". A decision to take over the gold of the National Bank of Belgium on this basis (EC R 32, inclosure, Office Four Year Plan to Military Commander in Belgium, 11 June, 1942) was subsequently abandoned for fear that the management of the Bank would resign (EC 401, Office Four Year Plan to High Command of the Armed Forces, 8 July 1942). (The gold of the Dutch bank was taken over as a "contribution to the battle against Bolshevism" (id)). (The gold was "requisitioned" under local German law (see infra, p     )). Under whatever theory, the exaction of occupation charges was made "to the limit of capacity" (EC R 59,

inclosure, Memo, Military Commander, 2 October 1941).

3. Throughout the period of German occupation, a substantial part of the contribution charges obtained from Belgium was used as a matter of regular practice "not for occupation cost purposes" (EC R 136, Memo, Special Representative West of the Central Administration of the RKK, 10 May 1944; EC R 155a, Memo Special Representative West, etc., 7 December 1942; EC R 35, Memo, Special Representative West, etc., 2 August 1941), including:

- a) Exports to Germany, Holland, and France (EC R 89, inclosure, Military Administration in Belgium to Ministry of Finance, 2 March 1942; EC R 104, Military Administration in Belgium to Ministry of Finance, 24 April 1942);
- b) Exchange of RKK certificates, a "not inconsiderable part" of which did "not have the least thing to do with occupation costs" (EC R 39, inclosure, Military Administration to Office Four Year Plan, 2 August 1941; EC R 142, Military Administration to Quartermaster General, OKH, 22 February 1943);
- c) "Political purposes (i.e. SS, Propaganda, Hitler Youth)" (EC R 106, Report of the Commissar at the National Bank, 1 May 1942);
- d) Purchases in the "black market" (id), many of them destined for export (see supra, page     ).
- e) General war expenses, including the supply of troops based in Belgium for military operations against England (EC H 5, Final Report, part 9, p 249); the Commander in Chief of the Army rejected a

recommendation of the Military Commander that a distinction be drawn between occupation troops and those for military operations (id, p 245).

- f) To provide in advance (while Germany was still in control of all Belgium) against the contingency that the Allies would overrun Brussels and that the Germans (having thus lost the power to exact contributions) would still occupy some part of Belgium and thus have a need for Belgian francs (Affidavit of Wilz, 4 October 1945). In fact, notwithstanding large expenditures in the last few days of the occupation, the Germans left Belgium with about 200,000,000 RM (id).

4. Notwithstanding the extensive use of occupation levies for non-occupation purposes, the contributions exacted from Belgium "were not only sufficient to cover all expenditures but enabled the Military Commander to build up a reserve of cash which at times amounted to 2,500,000,000 Bfrs." (EC H 5, Final Report, part 9, p 254).

B. The Nazi conspirators financed exports from Belgium to Germany by means of a forced loan under the guise of a clearing agreement.

1. The principle of the clearing system, as may be judicially noticed, is as follows:

The importer makes a deposit of the purchase price in his own currency at the national clearing agency of his country, which places the same amount to the credit of the clearing agency of the exporting country. The latter institution then pays the exporter in his own currency.

Thus, if trade between two countries is unequal the clearing agency of one acquires a claim against the agency of the other which, however, cannot be satisfied except by a shift in the balance of trade.

2. In the order establishing the German-Belgian clearing, the Belgian clearing agency was the National Bank of Belgium (VOBL p 119). The administration of the clearing was shortly thereafter transferred to the Emission Bank, an organization originally incorporated by Belgian corporations pursuant to order of the Military Commander of 27 June 1940 (EC R 24, Annual Report of the Commissar at the National Bank, May 1940 - May 1941). The change was one in name only, however, since at this time the management of the two banks was substantially identical and the Emission Bank obtained its currency by loan from the National Bank (id). The Emission Bank was, by its charter terms, subject to orders of the Commissar at the National Bank; the Commissar obtained the same powers over the National Bank by German order of 16 December 1940 (id).

3. The Belgian total "credit" under the clearing, as of 31 July 1944, amounted to 60,837,000,000 Bfrs. = 4,867,000,000 RM (EC R 173, Report of the Commissar at the National Bank, 15 August 1944), of which 54,993,000,000 Bfrs. = 4,399,000,000 RM arose from the Belgian - German clearing for goods and services (id).

4. The continual increase in the Belgian "credit" was due mainly to "the increasing Belgian export to Germany for which there are only small imports from Germany on the other side of the account" (EC R 149, 3rd Annual Report of the



Commissar, 5 June 1943).

5. The entire Belgian credit under the clearing constitutes a forced loan, largely for non-occupation purposes:

a) The Belgian - German clearing was established by circular of the Reichs Minister of Economics, 4 July 1940 (EC H 3, Final Report, part 10, paragraph 2, Annex 1), which was published to the Belgians by proclamation of the Military Commander of 10 July 1940 (EC Belg. 1, Letter Military Commander to the President of the Emission Bank, 1 May 1942; VOBL, p 119).

b) "Since it was to be foreseen that as the result of the increased deliveries from Belgium to the Reich, which were not matched by deposits accounts, particularly in the early period, the clearing status would develop to the favor of the Emission Bank" (EC R 24, Report of the Commissar for May 1940 - May 1941), an agreement was signed by the Emission Bank and the German Reichsbank on 16/17 August 1940 under which each undertook to pay out clearing transfers immediately (id; EC H 5, Final Report, part 9, annex 16).

c) This agreement did not proscribe what must be financed through the clearing; it merely provided for immediate payment of claims arising thereunder without waiting until the account should be balanced by equalizing of imports and exports. As the Military Commander stated, the German - Belgian clearing was "not regulated by an agreement, but has been regulated

unilaterally by my proclamation of July 10, 1940"  
(EC Belg. 1, Military Commander to the President of  
Emission Bank, 1 May 1942).

In this letter, the Military Commander made  
brutally clear the absolute power asserted by the  
German authorities over the Belgian Note Banks  
(as the Germans described the Emission and National  
Banks). He stated:

"... The claim made to the Commissar that the  
Emission Bank is entitled to ask in every case  
for detailed explanation of compensation payments  
coming from Germany is incorrect. The clearing  
activities between Germany and Belgium are not  
regulated by an agreement but have been regulated  
unilaterally by my proclamation of July 10, 1940  
and are not subject to any Belgian control. Inter  
alia the transfer of all payments which have  
been specially authorized by the Reich Ministry  
of Economy has been expressly permitted..."

d) The Commissar freely invoked his directive power  
over the Note Banks.

- (1) When, in April 1941, the clearing balance of the  
Emission Bank exceeded 1,500,000,000 Bfrs. the  
Emission Bank refused to pay out several large  
sums arising by virtue of German - Belgian  
"capital" transactions. (EC R 24, Annual Report  
of the Commissar for May 1940/1941). Thereupon,  
the Commissar issued an order directing the bank  
to make the payment (id).
- (2) In December 1941, the Emission Bank refused to  
pay out a sum of 43,256,000 RM transferred from  
Paris. (EC R 72, Special Plenipotentiary West,  
22 December 1941.) The Commissar thereupon issued  
an order directing the bank to do so (id).
- (3) On 29 October 1942, the Emission Bank refused to  
pay out certain amounts expended for purchases on  
the Belgian black market (EC R 132), Report of the

Commissar for August - October 1942, 1 December 1942). The military administrator, however, "held down the increasing resistance of the Note Banks which culminated at the end of October of this year in a public treat of resignation by the Governor of the National Bank, by the heaviest pressure, and forced the Note Banks, while emphasizing his willingness to negotiate on certain Belgian proposals, to again take up the global clearing transfers for German procurement agencies which were out off for a period" (EC R 131, Report of the Commissar, 1 December 1942) (Underscoring supplied).

The nature of this pressure is explicitly shown in the following communication from the Commissar to the President of the Emission Bank dated May 29, 1942 (EC Belg.2):

" The Military Commander has ordered me to inform you of the following:

The requested extension of time for the resumption of business relations with the Armed Forces Clearing Institute (Wehrmacht-verrechnungskasse) and for the payment of the arrears of RM 60 million has been denied. An official will determine tomorrow at 10 a.m. whether payment has been made.

Severest measures against you and all responsible parties must be expected in case of failure to pay.

If acts of sabotage occur on the equipment and the values of the National Bank or the Emission Bank, you and the gentlemen designated on the enclosed list will be held responsible personally and your property will be seized. Your liability is a joint one."

6. Not only Belgian trade with Germany but Belgian trade with all other countries as well was regulated by the German Central clearing system. By May 1941, "Belgium was connected for payments with 18 countries through the multilateral central clearing in Berlin" (EC R 24, Annual Report of the Commissar at the National Bank, May 1940-May 1941). With one exception "clearing in all countries" was made "through the account of the Emission Bank with the German Verrechnungskasse" (id), that is, all payments were made through the German clearing office and the Belgians received for exports to France, for example, not a claim in francs but one in reichsmarks.

7. In establishing this system the Germans undertook to negotiate clearing agreements for trade between Belgium and other countries without the consent of Belgium. This was true, for example, in the case of the establishment of the Belgian-Swiss clearing of 29 July 1944, which was signed by Schnurre for the German Government (EC H 6, Final Report, part 10, section 2, annex V) and of that between Holland and Belgium. (EC H 6, Final Report, part 10, section 2, annex III). The Belgians never consented to this procedure. They always insisted, for example, that the Belgian credit balance in its trade with France represented a claim in French francs (EC R 172, Report of the Commissar for the occupied areas of Belgium and Northern France to German Armistice Commission for Economics, Paris, 21 July 1944).

C. The Nazi Conspirators requisitioned the gold reserve of the National Bank of Belgium in the interest of the German general war effort.

The gold of the National Bank, deposited with the Bank of France and transferred to Dakar, was brought to Berlin pursuant to German-French "agreement" in the amount of 545,700,000 RM, and there deposited with the Reichsbank in Berlin (EC R 24, Report of the Commissar, May 1940 - May 1941). Because of the "high demands on gold and foreign exchange" which led to



a "considerable straining of the reserves" (EC 401, Office Four Year Plan to High Command of the Armed Forces, 8 July 1942), "Reich Government felt itself required to lay claim to the gold of the National Bank for the Reich" (EC R 149, 3rd Annual Report of the Commissar, 5 June 1943). A decision to proceed by requisitioning under paragraph 52 of the Hague regulations (EC 401, Four Year Plan to High Command, 8 July 1942) was not executed, apparently because of fears on the part of the Reichsbank that title thus acquired would not be recognized (EC R 115, teletype, 22 July 1942). On order of Göring (EC H 5, Final Report, part 9 annex XIII), the gold was then "requisitioned on 19 September 1942 by the Oberpräsident of the Province of Mark Brandenburg for the Deputy of the Four Year Plan, on the basis of the Reich Productivity Law (Reichsleistungsgesetz) of 1.IX.1939 (Sec. 15, para. 1, No. 5, and Sec. 2a)" (EC R 149, 3rd Annual Report of the Commissar, 5 June 1943).

D. The Nazi conspirators unlawfully compelled Belgian Nationals to surrender and offer for sale all precious metals and foreign exchange to the Emission Bank, which delivered them to the German Reichsbank.

1. By German decree of 17 June 1940 and administrative orders issued pursuant thereto (VOBL pp 51, 140), the Belgians were required to surrender gold and foreign exchange notes to the Emission Bank, which in turn, delivered the loot to the Reichsbank (EC H 24, Report of the Commissar to the National Bank, May 1940 - May 1941).

2. By May 1943, the Reichsbank had acquired in this fashion gold and foreign exchange of the value of 23,400,000 RM (EC R 149, 3rd Annual Report of the Commissar at the National Bank, 5 June 1943).

V.

THE GERMANS EXPLOITED THE BELGIAN ECONOMY FAR  
BEYOND THE CAPACITY OF THE COUNTRY.

During the war, Belgium was cut off from imports on which it depended for more than half its normal food supply (EC H 20, Final Report, Introduction to part 9, p 3). The Belgian food rations were the lowest in Western Europe (EC H 4, 1st Annual Report of the Military Commander, 15 July 1941, Annex C 4).

The little food available was beyond the reach of the average wage earner by reason of the inflation caused by German financial demands on Belgium. During the period of the occupation, the Belgian note circulation increased from 30,000,000,000 Bfrs. (itself an abnormally high amount resulting from withdrawals by the Belgians during the invasion), to 100,000,000,000 Bfrs. (EC H 5, Final Report, part 9, pp 67 - 68).

The rise in prices accompanying the increase in the circulation of money supplied for German needs brought severe hardship to the working classes. The report of the Commissar at the National Bank of 5 June 1943 (EC R 149) states: "It is to be considered furthermore that despite the increased prices, large parts of the population still work at wages which have been increased only insignificantly, as the result of the wage stop. Insofar as they cannot draw on previous savings or have no income from black market transactions - which is the case for a not inconsiderable part of the population - the means for the satisfaction of the cost of maintaining life have become insufficient for broad circles".

CVI.

THE NAZI CONSPIRATORS ACQUIRED OWNERSHIP OF BELGIAN PARTICIPATIONS IN EUROPEAN INDUSTRIES BY MEANS OF GOVERNMENTAL PRESSURE AND THROUGH THE USE OF FUNDS OBTAINED THROUGH THE CLEARING BY DURESS.

A. The Nazi conspirators unlawfully acquired for German interests substantial stock participations from private Belgian nationals.

1. On May 23, 1940, recommendation was made that "it would be opportune to secure all Dutch and Belgian stocks in order - especially in the case of holding companies - to win influence not only over them but also over the companies dominated by them" (EC 41, Memorandum by Fischer (apparently Ministerialrat Fischer of the Ministry of Economics)). The memorandum recommended the "taking possession of stocks of the dominated companies located in foreign countries and influencing the decisions of members of holding companies which are located in Holland and Belgium or of other owners of such stock" (id). Because of the provisions of 46 of the Hague Regulations prohibiting confiscation of private property, it was deemed "more advisable to influence members of holding companies through careful guiding than through plain forces" (id).

At a meeting held in the Reich Ministry of Economics on 3 June 1940 on the subject of "Belgian and Dutch capital shares in southeastern European countries" it was decided that regulations should be issued immediately by the Military Commander for Belgium prohibiting the destruction, transfer of disposition of any bonds or stocks of these countries, and that registration should be required of owners and trustees (EC 2, Report on Conference, 15 June 1940). Preparation of

draft of decree was entrusted to the Ministry of Economics, Ministry of Finance and OKW (WIRtAmt) (id).

3. By decree of the Military Commander of 17 June 1940 (VOBL, p 51) transfer of all stock participations to foreign interests was prohibited and a license was required for trading in "enemy" stocks.

4. In a memorandum of August 2, 1940 Goering declared that the goal of the German's economic policy was the "increase of German influence in German enterprises abroad", that it was "therefore indispensable to accept any opportunity, in order to get during the war economical entrance into those objects of the economy of the occupied countries which are of interest for Germany" and directed that the transfer of capital from Germany to the occupied countries must be facilitated so that "it will be possible to buy immediately enterprises in the occupied countries" (EC 137, Memorandum, Goering to Ministry of Foreign Affairs, Ministry of Economics and the High Command of the Armed Forces, 2 August 1940).

5. At a meeting at the Reich Ministry of Economics on 8 August 1940 on the subject of "Acquisition of shares of important foreign enterprises in southeastern Europe", Dr. Schlotterer of the Reich Ministry of Economics commented that "private economic penetration of the southeastern area by German influence is desirable, likewise the supplanting of British and French interests in that territory" (EC 43, Report on Meeting at the Ministry of Economics of 16 August 1940). The group present, including representatives of the Reich Ministry of Economics and the Reichsbank, agreed that an "attempt should be made immediately to acquire shares" and that in doing so the tendency should be preserved to present a



bill for the shares at the peace conference" (id). It was further agreed that "it should be attempted if possible to transfer the shares into private industry" but that "in order to make the right selection it appears necessary to introduce an intermediary stage" in which "first of all, enterprises should be taken over through banks, thereupon the plants should be managed as a matter of trusteeship for the Reich with the aim that Reich Marshal Goering can transfer them to dependable individuals in private industry from his point of view" (id).

6. By decree of 27 August 1940 all foreign stocks were ordered to be registered and offered for sale; Belgian colonial stock was exempted from this requirement by subsequent announcement (EC H 21, Report on Conference of Representatives of Office Four Year Plan, Ministry of Economics and the Reichsbank, 30 Sept. 1940, Annex 1).

7. Immediate steps were taken to implement these measures in Belgium. The annual report of the Commissar at the National Bank from May 1940 - May 1941 states: (EC R 24):

"According to the directions of the Reichsmarshal Goering as early as September 1940 the first measures for a closer formation of capital ties between the Belgian and German economy were taken. Two different procedures were concerned here:

"1.) Direct negotiations between German industrialists and Belgian industrialists, for the purpose of obtaining constructive participations in important Belgian enterprises which offer the basis for collaboration between the two economies even after the war. Furthermore, it is desired to transfer to German hands important Belgian participations in foreign enterprises whose administration is located in Belgium, particularly insofar as enterprises are concerned which are located in the Balkans and in which a general German interest exists.

"2.) Ties which result from purchases of stock by German parties on the Belgian stock markets. For this purpose the Reich Economics Minister has given general permission to 32 German banks to obtain participation rights, particularly stocks, in a limited quantity in Belgium. Till now use has been made of this permission

in the amount of about 25 million RM, to which can be added an additional 10 mill. RM for the procurement of Belgian participations in Rumania, Bulgaria, and the former Poland."

8. In his report for November 1940 (EC 34, 1 December 1940) the Military Commander for Belgium stated:

"The Belgians show certain readiness regarding the sale of stocks in countries which, at present, are under military or economical German rule. One of the important deals made of this nature is the purchase of a considerable share of the Allgemeiner Jugoslavischer Bankverein by the Kreditanstalt, Vienna, from Société Générale (object about 1 mill. RM) and the purchase of the controlling interest of the Banca Commerciala Romana by the Deutsche Bank from the Société Générale (object about 2 mill. RM). The Deutsche Bank was also able to buy the nominal value of about 800,000 RM shares of the Kreditanstalt, Vienna, from the Société Générale and one of her branch companies. Transactions between the Deutsche Bank and the Société Générale regarding transfer of about 25% of the capital of the Banque Générale du Luxembourg are almost completed. Through this transaction more than the immediate controlling majority (about 70% of the capital in stocks) will be in the hands of the Deutsche Bank and other German groups. The Deutsche Bank has the right of preemption for a further 25% which will remain at the Société Générale at present." (34) (*italics supplied*).

9. While the Military Commander may have given some assurance that the power to compel sale (reserved in the decree of 27 August 1940) would not be used in practice (EC H 22, Final Report, section 10, par 3, p 28), in at least one instance, purchase could be effected only by military order (EC 335-7, Report of the Military Commander for January - March 1943). In this instance the procurement of shares in the Belgian "Trust Metallurgique" in electricity and road enterprises of East Silesia and the General Government for the Main Branch of Trustees East, as well as purchase of shares in the iron works Ostrovice for the Reichswerk Hermann Goering had "to be done, at the request of the Reich Ministry for Economics, forcefully, as an agreement on a financial basis could not be obtained" (1d) (*underscoring supplied*).

10. By the end of 1942 the acquisition of Belgian interests ceased for the time being (EC R 132, Report of

Commissar at the National Bank, 1 December 1942), because of the "present considerable unwillingness of Belgian sellers to sell to German purchasing agents" and because the Germans ceased to be interested owing to the high prices in Belgium (id).

11. Compulsory offering of shares of foreign exchange value continued, and surrender to the RKK instead of, as previously, to the Belgian banks, was directed in order to enforce the more effectively the registration requirements (EC H 22, Final Report, part 10, par 3, p 27).

B! The German acquisition of Belgian stock participations were financed by forced loan through the Belgium-German clearing.

1. The Belgian clearing balances as of 20 March 1940 included an item of 296 million bfrs., which "is explained by out-payment of large clearing transfers to purchase Belgian capital participations in Balkan enterprises" (EC R 14, Memo, Commissar at the National Bank, 24 March 1941).

2. Increasing payments resulting from the German capital penetration program precipitated a controversy with the Emission Bank, which was resolved by the Commissar's issuance of an order requiring the bank to make payment (EC R 24, Annual Report of the Commissar at the National Bank, May 1940-May 1941).

3. As a sequel, the "capital payments" were separated from those for "goods and services" and financed by a separate "capital" clearing (id).

4. The Belgian clearing balance under the Belgian traffic constituted, as of 31 July 1943, amounted to 1,071,000,000 bfrs. (EC R 173, Report of the Commissar, 15 August 1944). (To determine the figure for the total German investment in Belgian securities, there must be added to this sum, of course, any

Belgian investment in German securities during the same period, payment for which would create a credit in favor of the German clearing office).

5. The Belgian credit under the capital clearing traffic represents a forced loan (see supra, p ), exacted for a purpose not even remotely related to the needs of the occupation army.



## VII.

### THE DEFENDANT FUNK SHARES RESPONSIBILITY FOR THE EXPLOITATION OF THE BELGIAN ECONOMY IN THE MANNER SET FORTH ABOVE

The defendant Funk was appointed Minister of Economics effective 15 January 1938 (EC 256, Letter Lammers to Göring and Funk 10 December 1937) and President of the Reichsbank 19 January 1939 (EC 427, Letter Lammers to Reichsbankdirektorium 20 January 1939). He succeeded Schacht as Plenipotentiary for the War Economy (EC 261, Funk to all Ministries, 14 March 1938) and served as "Plenipotentiary for Economy" at the outbreak of the war in 1939 (Interrogation of Funk by Lt.Col. Murray Garfein, 21 October 1945, p 4) with the duty of coordinating the activities of the Ministries (id, p 5).

In these capacities the defendant Funk is responsible for:

A. The direction of Belgian production and distribution in the interest of the total German war effort including German requirements for export to the Reich.

1. State Secretary Posse was placed on the staff of the Quartermaster General of the OKH in December 1939 to work on "economic questions" as representative of the Plenipotentiary for Economy (EC 69, Memorandum of Halder, 13 December 1939; EC 21, Memorandum of Posse, 8 January 1940). Thereafter, prior to the outbreak of the war in the west, the Quartermaster General issued a collection of decrees for the control of the economy of the western countries to be promulgated by the Military Administration during the occupation (see supra p. ).

2. Imports to Germany were controlled by the Reichsstellen, which were set up, under the name of Überwachungsstellen, under the jurisdiction of the Ministry of Economics in 1934 (RGBL 1934, I, p 212), and which continued to function in that agency until September 1943, when those concerned with procurement and production were transferred to the Speer Ministry of Economics and War Production (see infra, p ).

3. The Ministry of Economics fixed production quotas to be obtained for Germany from Belgium, in several instances after consultation with the Head of the Ministry (see supra, p.        ).

4. In 1943 the Ministry of Economics ordered appointment of its own officials to supervise directly the operations of the Belgian Goods Offices.

B. The levy of excessive occupation charges and the expenditure thereof for non-occupation purposes.

The Minister of Economics and the Reichsbank both participated in the making of policy with respect to the levy and expenditure of occupation charges (EC R 32, inclosure, Office, Four Year Plan to Military Commander, 11 June 1942; EC R 63, Commissar at the National Bank to Vice President of the Reichsbank, 7 November 1941; EC R 86, Report of Meeting of Representatives of the Four Year Plan, Ministry of Economics, Ministry of Finance, Reichsbank, OKW, 20 February 1942; EC R 5, Final Report, part 9, p 253).

C. The imposition of forced loans through the clearing system.

1. The Minister of Economics established the Belgian-German clearing by unilateral act (see supra, p.        ) and included Belgium in the German central clearing system without Belgium's consent (see supra, p.        ). The central clearing system was established pursuant to Funk's directive (Condensation and analysis of documents, work sheet reference No. 23 B, prepared by Lt. Korican, 13 September 1945).

2. The clearing system was administered for Germany by the Verrechnungskasse (see supra, p.        ) and established in 1934 under the supervision of the Ministry of Economics (RGL 1934, I, p. 997).

D. The confiscation of the gold of the National Bank of Belgium.

The Reichsbank received and disposed of the gold of the National Bank of Belgium on behalf of the Reich,

re-smelting the bars to conceal their origin (see supra, p.     ); EC 426, Report of U.S. Group C.C. Finance Division, 13 August 1945, pp. 3-4).

E. The enforced surrender of Belgian gold and foreign exchange.

The Minister of Economics, through the Devisenstelle, was responsible on foreign exchange matters (Affidavit of PUHL 7 November 1945; RGEL 1935 (Devisen Control Law of 4 February 1935)). Officials of the Ministry of Economics and the Reichsbank participated in the determination of questions pertaining to the foreign exchange decrees promulgated in Belgium (EC H 21, Report on Conference of Representatives of Office Four Year Plan, Ministry of Economics, and the Reichsbank, 30 September 1940, Annex 1).

F. The acquisition of Belgian stock participations.

1. The Ministry of Economics planned the program for the acquisition of Belgian interests and participated actively in its execution (see supra, p.     ).

2. The Minister of Economics directly intervened to compel a sale in at least one known instance (see supra, p.     ).

3. The Ministry of Economics and the Reichsbank formulated decisions regarding the surrender of foreign exchange and foreign stocks (     ).

4. The clearing system, under which the purchases were financed, was established by order of the Ministry of Economics (see supra, p.     ).

VIII.

THE DEFENDANT SPEER SHARES RESPONSIBILITY FOR THE EXPLOITATION OF THE BELGIAN ECONOMY IN THE MANNER SET FORTH ABOVE.

In February 1942, the defendant Speer succeeded Todt as Head of the Ministry of Armaments and Munitions, to which was transferred, in May of the same year, the procurement and production functions previously exercised

by the OKW - W1.Ru.Amt. (Mitteilungsblatt des W1.Ru. Amt/ OKW 1942, issue 10). In September 1943 the procurement and production functions of the Ministry of Economics, along with the Reichsstelle concerned with these functions, were transferred to the Speer Ministry, which was re-named "Ministry of Armaments and War Production" (RGBl 1943, I, p. 529).

In these capacities the defendant Speer is responsible for:

A. The orders directing Belgian production and distribution in the interest of the German total war effort, including the German requirements for export to the Reich.

1. All procurement and production functions of the Ministry of Economics (which had included the fixing of quotas for Belgium) (see supra, p. ) were transferred to the Speer Ministry of 1943 (see supra, p. ).

2. Pursuant to Speer's directive, the Rüstungsobmann began, at the end of 1943, to issue "positive" orders to individual concerns directing production and distribution in the German interest (see supra, p. ).

3. The defendant Speer ordered the requisition of the facilities of the Belgian research laboratories for use in Germany (see supra, p. ).

4. Substantial quantities of machinery and machine tools were requisitioned for use in Germany by agents of the Speer Ministry (EG H 1c, Final Report, part 11, sec. 2, p 57).

B. The expenditure of occupation costs for non-occupation purposes.

One of the corporations organized to exploit the Belgian black market was Pimitex, an agency of the Speer Ministry of Armaments and Munitions, which was used to



purchase non-ferrous metals, engineering tools, and machinery (see supra, p.     ). After May 1942, black market purchases were financed out of occupation funds (see supra, p.     ).

C. For the financing of exports to Germany through forced loans under the clearing system.

1. Belgian exports to Germany were financed through the clearing (see supra, p.     ).

2. The clearing was imposed on Belgium by unilateral German government order (supra, p.     ), knowledge of which must be charged to Speer.

IX.

THE ACTS OF THE NAZI CONSPIRATORS  
AS REVEALED BY THE EVIDENCE CON-  
STITUTE WAR CRIMES WITHIN THE MEAN-  
ING OF ARTICLE 6 (B) OF THE CHARTER  
OF THE MILITARY TRIBUNAL.

A. Such acts are prohibited by the Hague Regulations.

1. The control and direction of Belgian production and distribution to satisfy war requirements in Germany.

Article 52 of the Hague Regulations declares that requisitions in kind and services shall not be demanded except for "the needs of the occupation army". It is settled that requisitions for export to and use in the country of the occupying power is violative of Article 52. See Feilchenfeld, *The International Law of Belligerent Occupation*, Washington, 1942, pars. 148-149, and cases cited.

The argument, advanced by the Germans in defense of such requisitions during the first World War (See Garner, *International Law and the World War*, Vol II, p 126,n) and frequently again during the recent conflict( EC 424, Report on Armament in Poland, 1939-40, part III B, p.1; ECH 16 Memorandum, Military Government, Gruppe Kultur, 17 May 1944), that the limitations of Article 52 may be disregarded in case of military necessity, is not well founded. Article 23 g, which permits the destruction of private property when "imperatively demanded by the necessities of war, is included among the provisions relating to the rights of belligerents in the conduct of military operations, and has no relation to the powers of a belligerent in an occupied area in which conflict has ceased. (See Garner, *loc. cit. supra*). The latter are governed, so far as material here, by Articles 42-56.

Apart from Article 23g, there is no basis whatever for the German position. The Hague Regulations are

limitations on the powers which may be exercised under the plea of military of necessity (Spaight, War Rights on Land, p. \_\_\_\_). An exception for cases of alleged military necessity, therefore, cannot be implied.

In this view, the planned control and direction of the Belgian economy in the interest of the German war effort constitutes a violation of Article 52. This seems clearly true to the extent that production and sale for export to Germany were ordered by the Rüstungsobmann pursuant to Speer's directive late in 1943. It would seem equally true of the earlier method of control by prohibitions and restrictions. For the net effect of the priority system was to leave no alternative to producing in the German interest save to cease operations. And even this alternative was not available, since the power to appoint a commissar in case of recalcitrant plants was expressly reserved.

2. The requisition of machinery.

These requisitions constitute a clear violation of Article 52. The specious attempt to interpret the regulation in accordance with the requirement of "modern" warfare (supra, p 5 ) is based on a theory of war between peoples wholly at variance with the basic concepts underlying the Hague Regulations. Cf. Feilchenfeld, supra. par. 47.

As the claimed right to requisition the machinery was expressly rested on Article 52, it would seem unnecessary to enquire whether basis for such action might be found in Article 53, para. 2, authorizing the "seizure" of "war material". The latter provision authorizes the taking of possession only, with a duty to restore after the war; the actual requisition under Article 52 plainly implies a contemporaneous purpose to take permanent title. In any event the German legal advisers uniformly agreed that seizure of machinery affixed to the realty was not authorized by the terms of Article 53, para. 2 (EC 425, Kriegstagebuch January 1941 - 31 March 1941 for 21 January 1941; EC 84, report of Lt.Col. Helder on Reconversion of the Economy, p. 57,77; EC 263, Comments on Draft of Decree on



Confiscation of Polish property, undated; EC 424, Report on Armament Economy in Poland, p. 1 ), although some found justification in the plea of military necessity (EC 424, Report on Armament Economy in Poland, p. 2) or by a "modern" construction of Article 52 (EC H 10, part 11, section 2, par 5, p 57).

3. The levy of occupation charges for purposes not related to the needs of the occupation army.

The levy of occupation charges ("contribution") is limited to the "needs of the army or of the administration of the territory in question". As the limitation is in substance the same as in the case of requisitions, the levy of contributions to finance exports or other purposes unrelated to the needs of the army in the territory in question would seem plainly forbidden. Feilchenfeld, supra, par. 167; Spaight, supra, pp. 384-392. The power to levy contributions is reserved in order to permit an equitable distribution on the entire community of costs which, if supplies were requisitioned, would fall directly on the owners of the requisitioned property. Spaight, supra, pp. 387-389.

Moreover, as Article 49 apparently refers to the "occupying army" (Feilchenfeld, supra, par. 41) the levy of contributions to support the troops engaged in military operations against an enemy located outside the boundaries of occupied country, as well as other general war expenses, would seem prohibited.

4. Forced loans.

Forced loans can be justified only as contributions and are therefore subject to the same limitations. (Feilchenfeld, supra, par. 185). The forced loan under the Belgian-German clearing debt was exacted largely to finance exports to Germany (see supra, p. ).

5. The requisition of the gold of the National Bank of Belgium.

That the gold in question was private property is not

disputed; the Nazi conspirators proceeded on this view in the original decision to requisition under Article 52. Confiscation under Article 53, 1st paragraph, therefore, was not open to the Nazi conspirators; so far as appears they never considered such a step.

It may be assumed for purposes of argument that gold is subject to requisition under the Hague Regulations. Requisition may be made, however, only for the needs of the occupation army. It cannot be resorted to to relieve the "considerable straining of the reserves" of Germany.

6. The compulsory surrender of gold and foreign exchange.

The requirement of surrender of gold and foreign exchange (in exchange for Belgian francs) for ultimate delivery to the Reichsbank amounts in substance to a requisition and cannot be supported because obviously done solely to maintain the reserves of foreign exchange for the total war effort, not for the needs of the occupation army alone.

7. The acquisition of Belgian business interests.

1. The Nazis' acquisition of Belgian participations is illegal. That this is so in the case of the sales ordered by the Ministry of Economics is clear (see EC 43, Notes on meeting at Ministry of Economics, 13 August 1940). The conclusion should be the same even when sale was not expressly ordered. The German decree required that foreign owned stock be offered for sale (the Nazi conspirators were interested primarily in participations in industry located in Southeastern Europe). The forced sale of private property for the sole (and avowed) purpose of enrichment of the conqueror, having no relation either to the promotion of law and order or to the military interests of the occupying power, would seem plainly in violation of the law of nations. Even assuming that, in practice, the Military Commander softened

the effect of the decree by not compelling sale (save when ordered to do so by the Ministry of Economics), the existence of the legal requirement of offering for sale vitiates any purchase transaction. For the power to compel was reserved, and its very existence must necessarily have constituted a persuasive inducement to the Belgians to transfer part of their holdings (in the industries of Southeastern Europe) in order to retain the remainder. In short, the Germans "induced" the Belgians to part with their shares by a form of pressure for which there is no legal foundation. They should not be permitted to conceal the criminal character of their act by use of the form of a "voluntary" sale.

2. In any event, the purchases were financed through the clearing system, which, as shown above, constituted a forced loan. Since this contribution bore no relation to the needs of the occupation army or, indeed, served any purpose other than to enrich the Nazi conspirators and their nominees, it is plainly in violation of Article 49 of the Hague Regulations.

B. Such acts constitute "plunder of public or private property within the meaning of Article 6 (B) of the Charter of the International Tribunal."

Save as they may be authorized by international law (and hence "consented" to by the occupied countries), the acts complained of are of a character condemned by the criminal code of the Belgians and, indeed of all civilized countries. Absent such authority, the forcible permanent taking of money or other property whether from Government agencies or private persons, <sup>constitutes</sup> larceny or, as known in the international law of belligerent occupation, "pillage" (See Garner, supra, pp. 472-473). The question of which court or courts may try and punish for the offence is one of jurisdiction only (See Garner, supra, pp 475-480) and has been resolved by the Protocol.

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## DOCUMENTS

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- 2 Report on conference at Ministry of Economics regarding use of Belgian and Dutch participations in southeastern European enterprises, 15 June 1940.
- 21 Memorandum, Posse to Referatsleiter and Referenten, 8 January 1940, on staff of Plenipotentiary for Economy with the Quartermaster General, 8 January 1940.
- 34 Report of Military Commander for November 1940, pp. 120-121, 1 December 1940, regarding purchases of Belgian participations.
- 41 Memorandum of Fisher, 23 May 1940, regarding acquisition of Dutch and Belgian stock holdings.
- 43 Report on conferences at Ministry of Economics, 20 August 1940, regarding acquisition of shares in important enterprises in southeast Europe.
- 69 Memorandum of General Holder, 13 December 1939, regarding position of Posse.
- 84 Report of Lt. Colonel Helder on reconversion, end December 1940, pp. 57, 77, on seizure of machinery.
- 137 Memorandum of Goering, 2 August 1940, regarding extension of German interests in foreign enterprise.
- 155 Collection "Military Government" economic affairs, undated, regarding decrees to be issued in the to be occupied areas in the West.
- 253 Report of the Military Commander on "Belgium's Contribution to the German War Effort", 1 March 1942.
- 256 Letter from Dr. Lammers to Goering and Funk, 10.12.37, regarding appointment of Funk as Minister of Economics.
- 261 Funk to all Ministries, 14 March 1938, regarding appointment of Sarnow, deputy of Plenipotentiary for War Economy.
- 263 Note on draft of decree on confiscation of Polish property, undated.
- 333-1 Report of the Military Commander, p. C-2, on relation of Belgian financial "contribution" to total Belgian national income.
- 335-7 Report of the Military Commander, January-March 1943, p. C-20, on forced sales of Belgian interests.
- 365 Notes of General Thomas on meetings with General Keitel and Goering, January 1940 on Germany's scarcity of raw materials and purpose to exploit to be occupied areas to the fullest extent possible.
- 401 Letter, Office Four Year Plan, 8 July 1942, on seizure of Belgian gold.



- 424 Report on Armament Economy in Poland, 1939-1940, Part III B, p 1, regarding legality of seizure of machinery affixed to realty.
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- 426 Report of U. S. Group C. C., Finance Division, 13 August 1945 pp 3-4.
- 427 Letter, Lammers to Reichsbank Directorian, 20 January 1939, on appointment of Funk as President of Reichsbank.

2. ECR series (Reichskreditkassen files; originals in our possession, not yet photostated):

- 14 Memorandum, Commissar at the National Bank, 24 March 1941, on payments of clearing transfers for purchases of Belgian participation.
- 24 Annual Report of the Commissar at the National Bank, May 1940 - May 1941.
- 32 Inclosure, Memorandum, Office Four Year Plan to Military Commander, 11 June 1941, on Belgian occupation costs.
- 35 Memorandum, Special Plenipotentiary West, etc, 2 August 1941, on expenditure of occupation costs for non-occupation purposes.
- 39 Inclosure, Letter, Military Commander to Office, Four Year Plan, 2 August 1941, on exchange of RKK certificates expended for non-occupation purposes.
- 59 Inclosure, Memorandum, Military Commander, 2 October 1941, on burdening of Belgium with occupation costs to limit of capacity.
- 72 Memorandum, Special Plenipotentiary West, etc., 22 December 1941, on ordering of Emission Bank to pay out clearing transfer.
- 89 Inclosure, Letter, Military Commander to Ministry of Finance 2 March 1942, on use of occupation funds for non-occupation purposes.
- 104 Letter, Military Commander to Ministry of Finance, 24 April 1942, on expenditure of occupation funds for non-occupation purposes.
- 106 Memorandum, Commissar at the National Bank, 1 May 1942, on use of occupation funds for black market purchases and political purposes.
- 115 Teletype, 27 July 1942, on position of Reichsbank regarding requisition of gold of National Bank.
- 131 Report of Commissar at the National Bank, 1 December 1942, on use of force to prevent resignation of bank directors.
- 132 Report of Commissar at the National Bank, 1 December 1942, on same subject, and on cessation of purchases of Belgian participation.

- 142 Letter, Military Commander to Quartermaster General, OKH, 22 February 1943, on proportion of RKK notes expended for occupation purposes.
- 149 3rd Annual Report of the Commissar at the National Bank.
- 155a Memorandum, Special Plenipotentiary West, 7 December 1943, on use of occupation funds for non-occupation purposes.
- 166 Memorandum, Special Plenipotentiary West, 10 May 1944, on use of occupation funds for non-occupation expenditures.
- 172 Letter, Commissar for the occupied areas of Belgium and Northern France to German Armistice Commission for Economics, Paris, 21 July 1944, on Belgian position regarding central clearing system.
- 173 Report of Commissar at the National Bank, 15 August 1944, on total occupation charges and Belgian clearing balance.

3. EC Belgian Series, (obtained directly from Belgium; originals sent to Nuremberg by Belgian officials).

- 1 Letter, Military Commander to President of Emissions Bank, 1 May 1942, regarding regulation of German-Belgian clearing by unilateral German order.
- 2 Inclosure, Letter, Military Commander to President of Emissions Bank, 29 October 1942, directing payment of clearing transfer.

4. ECH series (obtained from Heidelberg; originals in our possession not yet photostated).

- 1 Final report of Military Commander, Belgium, part 10, par. 1, p 22, concerning German-Belgian trade.
- 2 Report on economic planning of Military Commander, 13 Sept. 1940:

- p 118 Planning of coal production.
- p 127 Planning of Iron and Steel production.
- p 129 Quotas of iron and steel.
- p 157 Planning of textile production.
- p 174 Quotas for shoes.
- p 175 Quotas of leather.

- 3 Final report of Military Commander, part 11, p 14, Organization of Goods Officer. P 86, Administrative set-up of armament production control.

- 4 Annual report of Military Commander for the first year:

- p C 90 Concerning coal quotas.
- p C 94 Concerning steel quotas.
- p C 98 Concerning metal quotas.
- p C 105-106 Concerning textile production plan.

- 5 Final report of Military Commander, part 9:

- p 9 Concerning RKK notes.
- p 112 concerning comparison of source of expenditure.
- p 245 concerning occupation costs.
- p 249 concerning occupation costs.
- p 254 concerning examination of occupation costs.
- Annex 13 Correspondence on requisition of Belgian gold.
- Annex 16 Agreement on Clearing 16/17 Aug. 1940.

- 6 Final report of Military Commander, part 10, par. 2:
  - Annex I Circular on establishment of clearing.
  - Annex III Notification on Dutch-Belgian clearing.
  - Annex V German-Swiss agreement on clearing with occupied countries.
- 7 Final report of Supervisory Agency (UWA) on Black Market:
  - p 1 Negotiation on exploitation of Black Market.
  - p 2-3 Establishment of Central Registration Office (ZAM).
  - p 3-4 Appointment of Col. Veltjens and establishment of UWA.
  - p 5 Branch of UWA in Lille.
  - p 6-8 List of purchase driver on black market.
  - p 17-18 Amounts of expenditure and over-price.
- 9 Circular of Mil. Commander dated 19 June 1943, concerning stopping of black market purchases.
- 10 Final report of Mil. Commander, part 11, section 10, page 57, requisitioned machinery and modern interpretation of Art. 52, and 53 of Hague Regulations.
- 11 Final report of Mil. Commander, part 11, section 2, par. 6, p 16, on church bell drive.
- 12 Report of activity of department for protection of art, p 70, figures of church bells removed.
- 13 Chart on execution of church bell drive.
- 14 Copy of letter from Speer on requisitions of scientific instruments, 23 June 1943.
- 15 Letter to Falkenhausen, dated 22 May 1944, on requisitions of scientific instruments.
- 16 Memo from Mil. Govt. Dept. Culture, dated 17 May 1944, on requisition of scientific instruments.
- 19 Final report of Mil. Commander, part 11, Section II, par. 9, p 23, showing closed down textile plants.
- 21 Report on meeting concerning Belgian foreign exchange securities at Four Year Plan, 5 October 1940. Annex 1.
- 22 Final report of Mil. Commander, part 10, par. 3.
  - p 27 concerning foreign exchange and gold regulations.
  - p 28 concerning promise of Mil. Commander not to demand sch. of securities.
- 23 Report on supplies in the German interest by Belgian and Northern France in 1941.
  - p 13 Figures of coal supplies to Germany.
  - p 17 Figures textile supplies for German account.

5. Additional documents omitted above:

EC 335, pp B-34, B-37

Condensation and analysis. Work Sheet Reference,  
23B, 13 September 1945 (Nurnberg).

6. Decrees:

1. VOBL (Verordnungsblatt), pp 37, 38, 65, 119, 295,  
599, 620, 986.
2. RGBl (Reichsgesetzblatt) 1934, I, pp 212, 997.
3. RGBl, 1943, I, p 529.
4. Mitteilungsblatt des Wi-Ru Amt - OKW, 1942, issue 10.

7. Interrogations:

Of Frunk, by Lt. Col. Murray Gurfain, 21 October 1945.

8. Affidavit:

Of Wilz, 4 October 1945.  
Of Puhl, 7 November 1945.