

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY
CONCERNING THE SETTLEMENT
OF CERTAIN PROPERTY CLAIMS

The Government of the United States of America and the Government of the Federal Republic of Germany have agreed as follows:

Article 1

This agreement shall cover claims of nationals of the United States (including natural and juridical persons) arising from any nationalization, expropriation, intervention, or other taking of, or special measures directed against, property of nationals of the United States before October 18, 1976, covered by the United States German Democratic Republic Claims Program established by United States Public Law 94-542 of October 18, 1976 (the "United States Program").

Article 2

1. In settlement of claims covered by article 1 in accordance with this agreement, the Government of the United States and the Government of the Federal Republic of Germany agree on a settlement amount of U.S. \$190 million (one hundred ninety million United States dollars) (the "settlement amount").

2. The final amount to be transferred by the Government of the Federal Republic of Germany to the Government of the United States (the "final transfer amount") shall be the settlement amount minus the offset amount and any amount determined pursuant to paragraph 7. Upon the entry into force of this agreement, the Government of the Federal Republic of Germany shall make an interim payment of U.S. \$160 million (one hundred sixty million United States dollars) on account of the final transfer amount. The final transfer amount shall be determined according to the provisions of this agreement.

3. In the event that the final transfer amount is less than U.S. \$160 million, the Government of the United States shall repay the surplus amount to the Government of the Federal Republic of Germany within two months after determination of the final transfer amount.

4. In the event that the final transfer amount exceeds U.S. \$160 million, the Government of the Federal Republic of Germany shall pay the difference, up to an amount of U.S. \$30 million (thirty million United States dollars), to the Government of the United States within two months after determination of the final transfer amount.

5. The "offset amount" shall be the sum of:

(a) the amounts that would have been received under the United States Program by persons who elect

or are deemed to have elected pursuant to article 3 to pursue domestic remedies in the Federal Republic of Germany, and

(b) amounts the Federal Republic of Germany documents that it has paid under the Act Governing the Equalization of Burdens ("Lastenausgleichsgesetz") or other German provisions to United States nationals for those properties for which such nationals elect or are deemed to have elected pursuant to article 3 to receive a portion of the settlement amount, to the extent that such payments have not already been taken into account in an award issued under the United States Program.

6. Within six months after the Government of the United States notifies the Government of the Federal Republic of Germany of the offset amount, the Government of the Federal Republic of Germany and the Government of the United States shall determine the final transfer amount in accordance with this agreement. The United States shall not thereafter espouse claims covered by article 1.

7. If, after the Government of the United States notifies the Government of the Federal Republic of Germany of the offset amount but before the final transfer amount is determined, the Government of the Federal Republic of Germany documents to the Government of the United States

that it has provided restitution or compensation to a United States national under the Law Regulating Open Property Issues ("Gesetz zur Regelung offener Vermögensfragen") or subsequent provisions for those properties for which such national has elected or been deemed to have elected to receive a portion of the settlement amount pursuant to article 3, the transfer amount shall be reduced by that national's portion of the compensation attributable to those properties under the United States Program.

8. If, after determination of the final transfer amount in accordance with paragraph 6, the Government of the Federal Republic of Germany documents to the Government of the United States that it has provided restitution or compensation after the entry into force of this agreement to a United States national for those properties for which such national has elected or been deemed to have elected to receive a portion of the settlement amount pursuant to article 3, the Government of the United States shall:

(a) before distribution to that national of the relevant portion of the compensation under the United States Program, refund to the Government of the Federal Republic of Germany that national's portion of the compensation attributable to those properties under the United States Program;

(b) after distribution to that national of the relevant portion of the compensation under the United States Program, institute appropriate proceedings under the laws of the United States to recover such amount from that national and return the amount recovered to the Government of the Federal Republic of Germany.

9. The United States shall be exclusively responsible for the distribution of the final transfer amount in accordance with the laws of the United States.

Article 3

1. Within two months after the entry into force of this agreement, the Government of the United States shall offer its nationals who would be entitled to a portion of the settlement amount under United States law the opportunity to elect whether to receive that portion of the settlement amount or to pursue domestic remedies in the Federal Republic of Germany. The Government of the United States shall establish a time limit for this election and notify the Government of the Federal Republic of Germany of the offset amount determined pursuant to article 2(5) within six months of the entry into force of this agreement. Where an award issued under the United States Program covers multiple separate properties, the claimant may elect to receive the portion of the

settlement amount attributable to any of those properties and to pursue domestic remedies in the Federal Republic of Germany for any other of those properties insofar as is permissible under German law.

2. Where claims made by a United States corporation cover properties belonging at the time of taking to a subsidiary incorporated in Germany, that corporation may elect to receive its portion of the compensation under the United States Program only if the subsidiary waives its claims for such properties in the domestic German Proceedings.

3. Any United States national who makes no election by a time limit to be established by the Government of the United States shall be deemed to have elected to receive a portion of the settlement amount.

4. If the Government of the Federal Republic of Germany documents to the Government of the United States within four months after the entry into force of this agreement that it has provided restitution or compensation to any United States national under the Law Regulating Open Property Issues ("Gesetz zur Regelung offener Vermögensfragen") or subsequent provisions for any properties claimed by that national under the United States Program, that United States national shall be deemed to have elected to pursue domestic remedies in the Federal Republic of Germany with respect to such

properties. Any United States national who has received compensation or restitution for properties under the circumstances described in articles 2(7) and 2(8)(a) shall also be deemed to have elected to pursue domestic remedies in the Federal Republic of Germany with respect to such properties.

5. For any United States national who elects or is deemed to have elected to receive a portion of the settlement amount, if the Government of the Federal Republic of Germany documents to the Government of the United States within four months after the entry into force of this agreement that it has paid compensation under the Act Governing the Equalization of Burdens ("Lastenausgleichsgesetz") or other German provisions for any property claimed by that national under the United States Program, that national shall be deemed to have transferred an equivalent principal amount of such compensation from his portion of the compensation under the United States Program, including any attributable interest, to the Federal Republic of Germany, to the extent that this amount has not already been taken into account in an award issued under the United States Program.

6. The Government of the Federal Republic of Germany shall afford United States nationals who elect pursuant to this article to pursue domestic remedies in the Federal Republic of Germany the same rights as it affords German nationals under the laws of the Federal Republic of

Germany to pursue and receive compensation, restitution, or any other remedy available under domestic compensation procedures within the Federal Republic of Germany. United States nationals who do not so elect shall not have such rights.

7. The Government of the Federal Republic of Germany shall afford United States nationals (including natural and juridical persons) with claims arising on or after October 18, 1976, the same rights as it affords German nationals under the laws of the Federal Republic of Germany to pursue and receive compensation, restitution, or any other local remedy available under domestic compensation procedures.

8. At the time of notification by the Government of the United States to the Government of the Federal Republic of Germany of the offset amount, the Government of the United States shall provide the Federal Republic of Germany with a list of all of its nationals with claims covered by article 1 indicating the election made pursuant to this article, as well as all available details of the claims covered by this agreement of each such national in accordance with the format set forth in the Annex.

9. This agreement shall constitute a full and final settlement and discharge of claims covered by article 1 of United States nationals who do not elect pursuant to

article 3 to pursue domestic remedies in the Federal Republic of Germany. Such nationals' title to, or rights or interests of any kind in, property of whatever nature in the Federal Republic of Germany covered by such claims shall be transferred by operation of this agreement to the Federal Republic of Germany when the final transfer amount has been determined. No further action or declaration by the United States nationals concerned shall be required in this regard.

Article 4

This agreement shall enter into force on the date on which the parties have notified each other that the necessary domestic requirements have been fulfilled. The date of entry into force shall be the date the latter notification is received.

DONE at Bonn this *13th* day of *May*, 1992, in duplicate in the English and German languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

Robert M. Kimmitt

FOR THE GOVERNMENT OF THE
FEDERAL REPUBLIC OF GERMANY:

Carsten

ANNEX

Format Referred to in Article 3(8)

Personal Data of Participant in the United States Program

Last name	First name	Date of birth
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Address

Basis of ownership of claim, as appropriate

Precise details of property concerned

For real estate:

- cadastral district (Gemarkung), subdistrict (Flur), lot (Flurstück), dimensions, registration office
- land register of: folio:
- last name, first name, and date of birth of registered owner

If the participant in the United States Program has also filed a claim for the same property in the domestic German program:

- date of application
- district office
- registry or file number