

THE WHITE HOUSE
WASHINGTON, D.C.

June 16, 2000

Dear Mr. Steiner:

We are now on the verge of an historic accomplishment, for which the Chancellor's leadership has been indispensable. We have agreed upon a DM 10 billion capped fund for the resolution of slave and forced labor claims and for all other wrongs committed by German companies arising out of the Nazi-era. We have also agreed upon the precise allocation of the DM 10 billion to the various types of claims and for a Future Fund. We have now resolved the difficult issue of reparations. This letter clarifies the exchange of correspondence between the parties and states the final position of the Administration on legal closure.

Let us reiterate on behalf of the President, that the President and the Administration are committed, as provided for in the proposed executive agreement, to enduring and all-embracing legal peace for German companies, for present and for future cases, for consensual and non-consensual cases. We agreed to commit in the agreement to file U.S. statements of interest in U.S. courts, stating, among other things, the U.S. foreign policy interests in dismissal. This was in the President's December 13 letter to the Chancellor. The Chancellor accepted the President's letter as the basis for legal closure, stating that "I greatly welcome the commitment of the U.S. Administration to state that the dismissal of all ongoing and future lawsuits would be in its foreign-policy interest."

We have since strengthened this commitment to give German companies even greater comfort against future suits. Let us review these and then offer our own assurances on behalf of the President:

- We have strengthened the wording of the Elements of the Statement of Interest as Count Lambsdorff requested of Deputy Secretary Eizenstat.
- We have strengthened the language in the Elements of the Statement of Interest as German companies suggested by going beyond the President's letter so that it now reads that it would be in the foreign policy interests of the

United States for the Foundation "to be" the exclusive remedy for claims against German companies, rather than that the Foundation "should be regarded" as the exclusive remedy.

- At our own initiative, to further strengthen our Statement of Interest, we have stated that the President has concluded that dismissal of cases against German companies would be in the foreign policy interests of the United States, rather than simply asserting that it was in the foreign policy interests of the United States.
- Further, at our initiative, we will have the Secretary of State issue a formal statement of U.S. foreign policy emphasizing our strong interests in the German Foundation as the exclusive remedy and forum for claims and strongly favoring dismissal of Nazi-era cases brought against German companies that could threaten it. This will be accompanied by a declaration by Deputy Secretary Eizenstat that these negotiations, which have resulted in the Executive Agreement, continue a 55-year effort by the United States government to work with the German government to address the consequences of the Nazi-era and World War II.

We want to add our assurances, on the President's behalf. We have worked together with you to develop this historic German initiative. We do not wish to take any action that would perpetuate present or future cases. Indeed, it will be the enduring and high interest of the United States to support efforts to achieve dismissal of all World War II-era cases, and the United States will act accordingly. To do otherwise would threaten the very Foundation Initiative to which all of us, including the President and Chancellor, have devoted so much time and effort. We will state in our Statement of Interest and in the Executive Agreement that for the last 55 years the United States has sought to work with Germany to address the consequences of the Nazi-era and World War II through political and governmental acts between the United States and Germany. Because the President believes that it is in the enduring and high interest of the United States, the Department of Justice will state to a court that the dismissal of all cases is in our foreign policy interests, and will affirmatively recommend dismissal on any valid legal ground, which, under the United States system of jurisprudence is for the U.S. courts to determine. Moreover, the United States will take no legal position in U.S. courts on pending and future cases which would itself preclude dismissal of these cases, and will, in fact, enumerate the real, legal hurdles plaintiffs face.

We appreciate your confirmation on behalf of both the German Government and German companies that these assurances resolve this important issue.

Sincerely,

Samuel R. Berger
Assistant to the President for
National Security Affairs

Beth Nolan
Counsel to the President

The Honorable Michael Steiner
National Security Assistant
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