

**COMMENTS TO THE COMMITTEE ON GOVERNMENT REFORM OF  
THE UNITED STATES HOUSE OF REPRESENTATIVES**

**8 November 2001**

**Israel Singer and Gideon Taylor**

**Conference on Jewish Material Claims Against Germany**

Thank you very much Congressmen Burton and Waxman for holding this hearing to address these very important issues. This statement is made by me, Gideon Taylor, on behalf of Israel Singer, Vice President of the Claims Conference and Chairman of our Negotiating Committee and myself.

As we stand here on the 63<sup>rd</sup> year after Krystalnacht, it is important to remember not only that on that night Jewish men were rounded up from their homes, many never to be seen again, and that thousands of synagogues and Jewish businesses were destroyed but also that the trust of German Jews in German society dissolved completely and utterly. However, after 60 years, through the efforts of the International Commission of Holocaust Era Insurance Claims (ICHEIC) and the German Foundation "Remembrance, Responsibility and the Future", we are attempting to secure a measure of justice for a small group of victims and heirs - those persons whose insurance policies were left unpaid for over half a century. Our central premise has been, and continues to be, that this is not an issue of money but of morality.

The Claims Conference was one of the negotiating partners in the establishment of the German Foundation and, led by Israel Singer, was the primary negotiating partner with German insurance and negotiated the funds to be allocated to the insurance component of the German Foundation. The Claims Conference is one of the member organizations of ICHEIC together with the State of Israel, the World Jewish Restitution Organization, the insurance companies who are signatories to the Memorandum of Understanding of August 1998 that established ICHEIC and the [US] National Association of Insurance Commissioners.

The issue of the administrative procedures of ICHEIC have been raised by a number of individuals. As has been the experience with the Swiss banks and other programs, the cost of carrying out outreach to find claimants, operating call centers and handling applications is expensive. We and the other members of ICHEIC are working with the staff of ICHEIC in an effort to reduce these expenses to the greatest extent possible

Regarding the claims process, in our view, it is the responsibility of ICHEIC to the claimants to ensure that every appropriate step is taken to:

- a) inform potential claimants of this process by undertaking outreach;
- b) inform potential claimants of the existence of unpaid policies through the publication of lists;
- c) require insurance companies to assume responsibility for all policies (including nationalized policies, confiscated policies – directly confiscated or confiscated indirectly through blocked accounts) that were issued by the companies directly or by their branches and/or subsidiaries;
- d) process those policies in a transparent manner that recognizes the suffering and destruction of the Holocaust and the passage of time and inspires the trust of the claimants; and
- e) ensure that the costs of the claims process are borne appropriately.

While some progress has been made we must unfortunately conclude that we have not yet achieved the success that we would have desired. Prior to and at the signing of the German Foundation agreement we hoped that the process described by former Deputy Secretary Eizenstat would be implemented quickly.

At the signing ceremony in Berlin on July 2000 Deputy Secretary Eizenstat stated

“It is critically important that all German insurance companies cooperate with the process established by the International Commission on Holocaust Era Insurance Claims. This includes publishing lists of unpaid insurance policies and subjecting themselves to audit.”

After over 15 months of negotiations with the German Insurance Industry and then the German Foundation, the current state of affairs is not at the moment encouraging. The German insurance companies are yet to agree in principle to implement some of the ICHEIC standards and in cases where a company has agreed in principle, we are not yet confident that the interpretation of these standards meets the spirit that lies behind them.

Claims Processing: It was our clear understanding that the claims processing by German companies would comply with the standards and burdens of proof, valuation and decisions of the Chairman of ICHEIC.

A few cases have been drawn to our attention that illustrate the problematic manner in which the cases are being processed, particularly by German companies and their subsidiaries.

For example: There have been a number of cases where the claimant has proof that the company issued the policy (policy document, premium receipt) but the company rejects the policy as “no proof of existence of a policy” . Such a response is in breach of the claims processing procedures which state that once the claimant proves the existence of a policy, the burden shifts to the company to show that the policy was paid to the beneficiary. In others cases, valuations were checked and found to be incorrect (in one case the offer to the claimant was \$20,000 instead of \$29,000).

We believe that in order for the claims processing to be successful a systematic monitoring of offers and rejections is most important.

In addition, we believe that a system of valuation of insurance claims to bring the value of policies to today’s value is critical. We await confirmation by the companies that the decision of the Chairman of ICHEIC in this regard will be implemented.

Lists: There is not yet an agreement on the question of a comprehensive publication of lists of policyholders of unpaid policies. We believe that the process to identify such policies must be one that will be as flexible as possible to enable the lists to be complete.

Audit: An audit of the claims process is in our view most important to enable claimants to have confidence in the claims process. We await confirmation of the proposal that an audit based upon ICHEIC standards, be jointly performed by the German Insurance Regulator (the BAV) and independent participants appointed by certain ICHEIC members and that the results be made fully available.

Costs: It was our clear understanding from the documents signed on July 17, 2000 that the only costs to be included in the settlement were "ICHEIC administrative costs" and that this would relate to costs going forward. We are most disappointed with the proposal made by the German Foundation that we believe sought to include costs that were not intended to be covered by the agreement.

Concerning Austrian insurance policies, the agreement in January 2001 provides for \$25 million of the Austrian Agreement to cover insurance policies not covered by the German Foundation and ICHEIC. It was the intention that the sum of \$25 million to be provided by Austrian Government and Industry would pay for policies issued by Phoenix (now owned by OVAG), Der Anker etc. It is our understanding that the Austrian companies that issued the policies will assume full responsibility for the policy, irrespective of the ownership of the company and/or its assets during the Nazi period.

We believe that it should not go unrecorded that the German Foundation has had some major achievements. As the partner organizations responsible for making payments from the funds of the German Foundation to most Jewish former slave and forced laborers we are pleased to report that the Claims Conference has already distributed some DM 434 million (equal to \$202 million) to 43,423 Holocaust survivors in 47 countries. Significant sums have also been distributed to non-Jewish laborers in other countries by the various partner organizations.

The German Foundation has succeeded in bringing together the parties and in implementing a speedy and effective way to make payments to former slave and forced laborers. We hope and believe that this success can be replicated in the area of Holocaust era insurance. With some showing of flexibility this can be achieved.

We must resolve these outstanding matters immediately. As Deputy Secretary Eizenstat stated last July “ We now all bear a heavy responsibility to implement this historic agreement, the victims have waited 55 years for this day. We cannot let them wait longer.”