

SECTION B.—PLEADINGS
SECTION B. — MÉMOIRES

I. MEMORIAL SUBMITTED BY THE GOVERNMENT OF
THE PRINCIPALITY OF LIECHTENSTEIN

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INTRODUCTORY

1. This Memorial is submitted to the Court in pursuance of an Order made by the President of the Court and dated the 26th January 1952 following upon the Application dated the 10th December 1951 and addressed to the Registrar of the Court by the Agent of the Government of Liechtenstein. In that Application the claim of the Government of Liechtenstein was expressed in the following terms :

“The claim of the Government of the Principality of Liechtenstein is :

- (a) that the Government of Guatemala has acted contrary to international law and has incurred international responsibility by the unjustified detention, internment and expulsion of Mr. Nottebohm and by the sequestration and confiscation of his property ;
- (b) that the Government of Guatemala is bound to restore to Mr. Nottebohm his movable and immovable assets as shown in the list appended to the Note of 6 July 1951 (see Annex No. 1 to the Application in this case) ;
- (c) that the Government of Guatemala is bound to grant full compensation to Mr. Nottebohm in respect of such property as it is not in a position to restore to him owing to physical destruction or for other reasons ;
- (d) that the Government of Guatemala is bound to pay full compensation for the use of and profits derived from the sequestered and confiscated assets and properties as well as for damage, depreciation and other losses sustained in respect of the said assets and properties as the result of or in connection with their sequestration and confiscation ;
- (e) that the Government of Guatemala is bound to pay full compensation for the unlawful detention and internment of Mr. Nottebohm as well as for preventing him, in a manner amounting to unjustified expulsion, from returning to Guatemala ;
- (i) that the Court shall determine the amount of compensation due to the Government of the Principality of Liechtenstein under (c), (d) and (e) above.”

2. This Memorial is divided into two parts. The First Part contains a general statement of the facts out of which the claim

arises. The Second Part is devoted to a statement of and an elaboration of the principal legal submissions upon which the Government of Liechtenstein rely in support of their claim.

PART I

THE FACTS

The nationality of Mr. Nottebohm

3. This claim is made by the Government of Liechtenstein on behalf of Friedrich Nottebohm, a national of the Principality. Friedrich Nottebohm was born of German parents in Hamburg, Germany, on the 16th September 1881. In accordance with the provisions of the German nationality legislation in force at that time he was, therefore, by birth a German national. In 1905 he took up residence in Guatemala. With the exception of occasional visits to foreign countries he was continuously domiciled there until the day of his expulsion in November 1943. The details of his activities and of the nature and extent of his business in Guatemala are given below in paragraphs 6 to 8.

On the 9th October 1939, in the course of a visit to Liechtenstein, Mr. Nottebohm applied for the grant of Liechtenstein nationality in accordance with the provisions of the Liechtenstein law of nationality of the 10th January 1934 and, in particular, with the provisions of s. 6 (*d*) thereof. S. 6 (*d*) provides :

"Nationality may be conferred upon aliens only if ... (*d*) they have ordinarily resided in the territory of the Principality of Liechtenstein for at least three years; that requirement may be dispensed with in circumstances deserving special consideration and by way of exception."

The full text of s. 6 of the said law is printed as Annex 1 to this Memorial. This application had already been the subject of discussions between the legal representative of Mr. Nottebohm and officials of the Government of Liechtenstein and of careful consideration by the latter. After further consideration of this application and having satisfied themselves that Mr. Nottebohm fulfilled the requirements of the law of nationality of 1934, the Government of Liechtenstein on the 13th October 1939 granted the application. On the 20th October 1939 Mr. Nottebohm received from the authorities of Liechtenstein a certificate to this effect (Annex 2). On the 20th October 1939 a passport numbered 702 was issued to Mr. Nottebohm by the Chief of Government, Vaduz. On the 6th May 1946 the Government of Liechtenstein issued a further certificate to the same effect, namely, that on the 13th October 1939 Mr. Nottebohm had acquired citizenship of Liechtenstein (Annex 6, para. 20). The Government of Liechtenstein are advised that in accordance with Article 25 of the German nationality law

of the 22nd July 1913 the effect of the acquisition of citizenship of Liechtenstein was that, as from the 13th October 1939, Mr. Nottebohm ceased to be a German national. In addition, Mr. Nottebohm informed the German Minister in Guatemala of his change in nationality and requested the German Minister to remove his name from the list of German nationals resident in Guatemala.

4. This change in the nationality of Mr. Nottebohm was on several occasions recognized and accepted as effective by the Government of Guatemala. On the 1st December 1939 the Consul General of Guatemala in Zurich, Switzerland, entered in Mr. Nottebohm's Liechtenstein passport a visa for the return of Mr. Nottebohm to Guatemala. Upon his return, by an application dated the 29th January 1940 and addressed to the Secretariat of State in the Office of External Relations of the Government of Guatemala, Mr. Nottebohm declared that he had acquired Liechtenstein nationality and requested that his registration in the Register of foreign nationality should be changed accordingly (Annex 6, para. 6). This request was granted on the 31st January 1940. The new registration was made in Registration Book No. 20, folio 1968, and Mr. Nottebohm was informed accordingly (Annex 6, para. 7). An endorsement was added to his identity document on the 9th February 1940 to the effect that he was a citizen of Liechtenstein. On the 1st July 1940 a certificate to the same effect was issued to Mr. Nottebohm by the Civil Registry of Guatemala. In reply to a letter from the Swiss Consul dated the 25th September 1943, the Minister of External Relations of Guatemala on the 18th October 1943 confirmed the registration of Mr. Nottebohm as a Liechtenstein citizen (Annex 6, para. 10).

5. On the 20th December 1944 the authorities of Guatemala cancelled the registration of Mr. Nottebohm as a citizen of Liechtenstein. Though the copy of Mr. Nottebohm's file (see Annex 6, para. 14) which was supplied by the Government of Guatemala to the representatives of Mr. Nottebohm states that reasons were appended to that cancellation, that document does not in fact state what those reasons were. Consequently, neither the Government of Liechtenstein nor Mr. Nottebohm have knowledge of the grounds of the purported cancellation of his nationality.

An application was made on the 24th July 1946 by Mr. Karl Heinz Nottebohm Stoltz, as proxy for his uncle, Mr. Friedrich Nottebohm, the claimant in this case, for the repeal of the administrative decision by virtue of which the registration of Mr. Friedrich Nottebohm as a citizen of Liechtenstein was cancelled. This application was refused on the 1st August 1946 (Annex 6, para. 16).

The nature of the residence and of the activities of Mr. Nottebohm in Guatemala

6. From the time of his arrival in Guatemala in 1905, Mr. Nottebohm was continuously associated with the firm of "Nottebohm Hermanos" which had been founded by Mr. Nottebohm's brothers, Johannes and Arthur Nottebohm. In 1912 Mr. Nottebohm became a partner in the firm, and in 1937 he became senior partner. At that time the principal activities of the firm were banking, the conduct of export and import trade, the growing of sugar and coffee and the breeding of cattle. In connection with its activities, the firm owned large coffee and sugar plantations and cattle farms. The firm also owned substantial interests in other firms and plantations.

7. During this period Mr. Nottebohm came to enjoy a position of increasing prominence as a resident of Guatemala. He acquired a considerable reputation in the commercial world and was much respected. Evidence of the close ties of sympathy which united not only Mr. Nottebohm but also the whole of his family to the local community is provided by his and their regular contributions to a number of local charities including the Guatemalan Red Cross, the Society for the Protection of Children and the Society of St. Vincent of Paul (Annex 5, paras. 21-25).

8. At no time during the period of his residence in Guatemala did Mr. Nottebohm take any part in political activities which could in any way be construed as hostile to the Government of Guatemala. In particular, he was never a member of the Nazi Party in Germany, nor was he in sympathy with them. Reference is made in this connection to a number of testimonials written in 1944 by Licentiate Andrade, ex-President of the Republic; Señor Dorion, Vice-President of the National Legislative Assembly; Don Asensio, Chief of the Guatemalan Red Cross; and Señor Willemsen, a Dutch national, resident in Guatemala. These documents are printed in Annex 5, paras. 30-32, 34. Moreover, from the time of the outbreak of the war in Europe in 1939 the firm of Nottebohm Hermanos conducted no business at all with German firms nor did it in any way lend support to the German war effort. Particular reference is made in this connection to the certificates issued by Mr. Arthur Neale, formerly Civil Attaché of the British Legation in Guatemala; by Señor Roberto Fischer, the Swiss Consul in Guatemala; and by Señor Daniel W. Orbaugh, an American accountant and auditor (Annex 5, paras. 35, 33, 36).

9. On the 17th July 1941 the Government of the United States, in pursuance of a general policy directed against commercial intercourse with Germany, placed the name of Mr. Nottebohm on their "Black List". This list was subsequently adopted by the Govern-

ment of Guatemala and was known as the "Promulgated List". At the same time, or soon after, Mr. Nottebohm's assets in the United States were "frozen". On the 21st December 1950 the Office of Alien Property of the United States Department of Justice issued a certificate stating that, after due enquiry in the United States, Germany, Switzerland, Liechtenstein and Guatemala, it had been decided to release those assets (Annex 3).

10. It does not appear from the evidence available that, apart from the fact of the inclusion of the name of Mr. Nottebohm in the United States "Black List", the Government of Guatemala has relied, as a justification of the measures taken by it against him, on any allegations of activities disloyal or injurious to the interest of Guatemala.

The outbreak and conduct of the Second World War in so far as they affected Guatemala

11. War broke out between the United Kingdom and Germany on the 3rd September 1939; between the United States and Germany on the 11th December 1941; and between Guatemala and Germany on the 11th December 1941. On the 30th August 1939 the ruling Prince of Liechtenstein informed the Swiss Political Department of the intention of Liechtenstein to maintain the strictest neutrality in case of an impending war. In accordance with this declaration, the Government of Liechtenstein, throughout the whole of the Second World War, preserved a position of strict neutrality. Liechtenstein was at no time at war with Guatemala. It is relevant and important to state that at no time during the period of hostilities did the war on land even remotely approach the territory of Guatemala. At no time, to the knowledge of the Government of Liechtenstein, was martial law proclaimed in Guatemala and at no time was the ordinary civil administration of the country superseded by any form of military authority.

The arrest, detention and deportation of Mr. Nottebohm

12. On the 19th November 1943 at about 8 a.m., Mr. Nottebohm was requested by the Police Headquarters in Guatemala City to appear as soon as possible in a special matter before the Director of Police. At about 9.00 a.m. Mr. Nottebohm, accompanied by his chauffeur, arrived at the Police Headquarters. After a short delay, he and several others were taken before the Director of Police and were informed that they were to be deported to the United States and interned in a camp there. Mr. Nottebohm protested against this and produced his Liechtenstein passport. He was told that even if he were a Liechtenstein national he would be deported. Mr. Nottebohm was then taken, despite his repeated protests, in an American car to the United States military camp in Guatemala

City. No reasons were given to Mr. Nottebohm for this arrest and deportation. No hearing of any kind was held. He was not permitted to inform his chauffeur that he was being deported.

13. Several days then elapsed before Mr. Nottebohm was actually deported. During those days he was allowed some visitors in the presence of officials of the United States or Guatemala. The Swiss Consul was unsuccessful in his efforts to assist him. Subsequently Mr. Nottebohm was taken to the port of San José, on the Pacific coast, and was there embarked for New Orleans. The journey took thirty days and was attended in its final stages by conditions of overcrowding and great hardship. One hundred and fifty persons were confined in a single large room below deck. At New Orleans Mr. Nottebohm once more saw a Swiss Consul but again without any satisfactory results. Thereafter Mr. Nottebohm was interned for about a year at Camp Kennedy, near San Antonio, Texas. He was later transferred to Camp Lincoln, near Bismarck, North Dakota. He remained there until his release on the 22nd January 1946.

Upon his release, Mr. Nottebohm immediately went to New Orleans and applied to the Consulate of Guatemala for readmission to Guatemala, but his application was refused. He renewed his application directly by cable to Guatemala. His request was once more rejected. The grounds for these refusals were never stated.

14. The cumulative effect of these unjustifiable acts has been to cause substantial detriment to the health of Mr. Nottebohm by subjecting him to conditions of hardship and imposing upon him considerable mental pain and suffering in the form, particularly, of fits of depression. The effect of the calculated campaign of calumny initiated by the Government of Guatemala who have asserted that he is a German national with Nazi sympathies and connections has been to cause irreparable damage to Mr. Nottebohm's commercial and social reputation not only in Guatemala but elsewhere. The most substantial result of the arrest and expulsion of Mr. Nottebohm was, however, that he was not in a position, at the time when his extensive business and property interests were subjected to measures of expropriation, to intervene to protect and safeguard them. Moreover, the fact that he is now wrongfully denied readmission to Guatemala means that even if the property were restored or its full value were paid to him, he would be unable personally to take commercial advantage of them or to enjoy their fruits in Guatemala.

The seizure and confiscation of the property of Mr. Nottebohm

15. In the course of nearly forty years' residence in Guatemala, Mr. Nottebohm acquired there substantial interests in various kinds of property. These interests (of which Mr. Nottebohm has

been deprived and in respect of which this claim is made) are of three classes : (a) Mr. Nottebohm's share in the partnership property (which included real estate, shares and bank balances) of the firm of Nottebohm Hermanos ; (b) his share of certain real estate held jointly in equal shares under his name and that of Mr. Karl (Carlos) Heinz Nottebohm ; and (c) certain shares of which Mr. Nottebohm was the sole beneficial owner. A list of these interests will be found in Annex 4.

16. From the 9th October 1941 until the 31st May 1951 a series of governmental and legislative decrees relating to the property of enemy aliens was promulgated in Guatemala. The full texts of the majority of these decrees are reprinted as Annexes 8-17 to this Memorial. It will, however, be convenient to make at this point some specific reference to their general nature and effect :

Governmental decree 2601 of the 9th October 1941 (Annex 8). It appears that this decree was in part the result of the publication on the 17th July 1941 by the President of the United States of America of a "Black List". The object of decree 2601 seems (*inter alia*) to have been to make provision for the sale of coffee grown on plantations owned by persons or corporations whose names were included on this list. The Government of Liechtenstein are unable to ascertain whether this was the Black List on which appeared the name of Mr. Nottebohm (to which reference is made in para. 9 above) and whether the provisions of decree 2601 as such were ever put into effect against Mr. Nottebohm or his property.

Governmental decree number 2655 of the 23rd December 1941 (Annex 9). This decree was described as an emergency law and was published in consequence of the outbreak of war between Guatemala and Germany, Italy and Japan. In various articles of this decree reference is made to three classes of persons : (1) enemy nationals ; (2) persons figuring in the list promulgated by the United States of America (presumably the list referred to in decree 2601) ; and (3) blocked nationals, who are defined in Article 40 as "every person ... who is a national of any of the countries at war with the Republic or linked juridically or politically with the institutions or official bodies of the same". Article 20 of decree 2655 laid down as follows :

" ... The State, when by virtue of circumstances it shall deem it convenient and necessary, may order the supervision and even the sequestration and direct control of any commercial, industrial or agricultural undertaking, belonging to or administered by blocked nationals or those included in the promulgated lists...."

Power was also given to the Government in Article 13

" ... to order the internment of nationals of the countries with which the Republic is at war, whenever their attitude suggests

that they are engaging in activities which are subversive or dangerous to the security of the nation and of its institutions....".

Again, the Government of Liechtenstein are not certain of the full extent to which the Government of Guatemala applied or purported to apply the provisions of this decree to Mr. Nottebohm or his property (see Annex 4).

Governmental decree number 3134 of the 14th August 1944 (Annex 10). Article 1 of this decree provided that

"... the following are expropriated in favour of the Nation: immovable assets in general, commercial and industrial establishments, bonds, shares and real estate dues belonging to private persons and corporations included on the 'promulgated lists'....".

Provision was made for the assessment of an indemnity which was to be paid not to the original owner of the property but to Guatemalan nationals who might suffer damage as the result of the war. The Executive Power was to name in subsequent decrees the persons whose assets were to be made the object of expropriations.

Governmental decree number 3135 of the 14th August 1944 (Annex 11). In this decree, under the power given in decree number 3134, the Government named the persons whose estates and annexes (*anexas*) were to be expropriated. The name of Nottebohm Hermanos appears twelve times in the list appended to Article 1.

Governmental decree number 3138 of 23rd August 1944 (Annex 12). This decree is described as the "Law for the application and execution of governmental decrees numbers 3134 and 3135". It provides in Article 2 for special proceedings to be conducted in connection with each expropriation and in Article 7 for notices to be given to the owners affected by decrees 3134 and 3135. The properties expropriated were to be transferred "with the greatest possible financial convenience" to Guatemalan citizens.

Legislative decree number 114 of the 29th May 1945 (Annex 13). This decree provides for certain amendments to governmental decrees numbers 3134 and 3138. Among other amendments, the payment of indemnification provided for in decree number 3134 was to be reserved until the peace treaties have been signed and ratified. Other provisions relate to the expropriation proceedings and to the length of the notices to be given in connection with them.

Legislative decree number 630 of the 25th May 1949 (Annex 14). The purpose of this decree was to "recast in one general statute" the emergency legislation relating to the treatment of enemy property in Guatemala. Accordingly, Article 60 annuls governmental decrees numbers 3134, 3135 and 3138 and legislative

decree number 114. The decree was expressed to be retroactive to the 7th October 1938, although the date on which it was published was the 7th October 1949. Provision is made in Article 3 for the immediate expropriation of all the assets, dues and shares which the enemy and his collaborators may possess in Guatemala. Article 4 provides that

"The State will settle its duly established war claims and those of its nationals with the sum of the compensations which it should pay to the expropriated according to Article 92 of the Constitution and the relevant provisions of this law."

Persons who were to be deemed "enemies" and whose property was, therefore, to be expropriated were defined in Article 7 as *inter alia*,

"(a) Private persons or corporations holding the nationality of any of the countries with which the Republic was at war, or who held such nationality on the 7th October 1938; even though they claim to have acquired another nationality subsequently...."

"(c) Private persons or corporations who figure in the 'Promulgated Lists' issued by the Government of the Republic...."

Article 11 provided that

"Expropriations already carried out in conformity with previous dispositions of the emergency laws are definitively approved, and cannot be the subject of claims on the part of the interested parties...."

Articles 16 and 17 provide for some exceptions to the operation of the decree. However, these exceptions are not, according to Article 18, to apply in cases in which the property involved forms part of the capital or securities of corporations of an agricultural, financial or banking nature. It is expressly provided in Article 19 that

"... nationals of the countries with which the Republic was not at war will be completely excepted if they prove that none of the other reasons for expropriation of Chapter II is applicable to them".

Articles 28 and 29 relate to the expulsion from Guatemala of aliens who actively co-operated with the Axis. The remainder of the decree is concerned with procedural matters. Governmental decree 630 was subsequently amended in certain respects by legislative decrees 689 of the 31st October 1949, 763 of the 18th October 1950 and 811 of the 23rd May 1951 (Annexes 15, 16 and 17).

17. The relationship between the decrees referred to above and the separate acts of dispossession by which Mr. Nottebohm was deprived of his property is not clear. Apart from the specific

references to certain portions of his property in governmental decree 3135, Mr. Nottebohm does not, and in the circumstances can hardly be expected to, know the exact dates on which or the precise means by which his property was taken from him. He is not in the possession either of notices of expropriation or orders of requisition or receipts or vouchers. The fact remains, however, that on the date of his arrest Mr. Nottebohm was the beneficial owner of the property described in detail in the list to be found in Annex 4, and that he is no longer regarded by the authorities of Guatemala as the owner of the property nor is he the recipient of the income of the property. He has received no compensation or payment of any kind in respect of the transfer of that property and no offer of compensation has been made to him. The value of the property stated in the list is the estimated market value of the property on the 17th December 1951, which is the date of the institution of proceedings in this case.

Diplomatic correspondence

18. On the 6th July 1951 the Government of Liechtenstein addressed to the Government of Guatemala a note of protest and a claim for the restitution of the property and for damages for the arrest and expulsion of Mr. Nottebohm. (This correspondence has been printed as annexes to the Application instituting proceedings in this case.) The receipt of this note was formally acknowledged by the Minister of External Relations of the Republic of Guatemala on the 24th July 1951. In the absence of any further communication from the Government of Guatemala, the Government of Liechtenstein addressed to the Government of Guatemala a further note on the 24th October 1951. No reply to this further note was received by the Government of Liechtenstein. By a letter dated the 10th December 1951 addressed to the Registrar of the Court, the Government of Liechtenstein instituted the present proceedings against the Government of Guatemala.

PART II

THE LAW

Section I

General observations

The nature of the claim

19. In this case the Government of Liechtenstein present on behalf of Mr. Friedrich Nottebohm, who is and was at all material times a national of Liechtenstein, two claims against the Government of Guatemala: (1) The principal claim is for the restitution

of the property of Mr. Friedrich Nottebohm which was wrongfully seized by the Government of Guatemala between 1942 and 1946. The Government of Liechtenstein also claim an account of the profits of the use of that property and damages for loss of profits since the dates on which the property was seized. If restitution is impossible or if the condition of the property has deteriorated substantially, the Government of Liechtenstein claim damages for the seizure and retention by the Government of Guatemala of the property of Mr. Nottebohm. (2) Secondly, as the Government of Liechtenstein maintain that on various dates between 1943 and 1952 the Government of Guatemala wrongfully arrested Mr. Nottebohm, detained him, and in effect arbitrarily expelled him from Guatemala in clear violation of his rights under international law, the Government of Liechtenstein claim damages for these wrongful acts.

Summary of principal legal contentions

20. It will be convenient to indicate at this stage the general principles of international law on which the Government of Liechtenstein rely in the present case :

- (1) While in certain circumstances States are not obliged to recognize and to give effect to the nationality laws of foreign States, the general rule is that such nationality laws and the effects of their operation must be respected by foreign States.
- (2) In consequence, States are under an obligation to recognize the effects of a valid decree of naturalization granted by a foreign State. A State commits an international wrong if it refuses to recognize or to continue to treat as operative such a decree of naturalization and if it declines to treat the individual concerned as a national of the State granting naturalization. The wrongfulness of such action is enhanced by the circumstance that the State has previously recognized the naturalization obtained in a foreign State and that it enacts and applies legislation which in effect purports to deprive the individual in question of the nationality thus acquired by naturalization. A further aggravating circumstance of such action results from the fact that in consequence of the legislation in question the individual concerned is invested with enemy nationality and exposed to discrimination and disabilities affecting enemy aliens.
- (3) A neutral national resident in time of war in belligerent territories is entitled, subject only to the demands of military necessity, to continue to reside in that territory, to move about freely, and to own and possess property in accordance with the general law of the country.
- (4) Subject to exceptions resulting from (3) above, a neutral national resident in belligerent territory is entitled to the same

treatment as any friendly alien in time of peace. Any seizure of his property on grounds which in effect discriminate against him individually as an alien is wrongful, and he becomes thereupon entitled to the payment of such damages as would place him, so far as is possible, in the same position as if the property had never been seized. While seizure of his property as part of a general measure directed against all inhabitants of the territory without discrimination is not necessarily wrongful, it becomes wrongful if the State fails to pay prompt adequate and effective compensation. An enactment which is expressed in general terms may nevertheless be discriminatory if its object or execution are in effect discriminatory.

- (5) Unless justified by the requirements of immediate military necessity, the arrest, detention and expulsion of a neutral national is wrongful. In any case, a neutral national under arrest or detention is entitled to an administrative or judicial hearing to determine whether the necessity is such as to justify the measures taken. Any failure to afford such a hearing constitutes in itself a denial of justice.
- (6) The unjustified or arbitrary expulsion of an alien who is permanently resident in the country and has established a business there or has otherwise been engaged in a lawful occupation is contrary to the international obligations of a State and involves the duty of compensation or readmission or both.
- (7) The refusal to readmit an alien who has been wrongfully deported or otherwise compelled to leave the country is tantamount to expulsion and involves the international responsibility of the State in all cases in which the alien in question has been permanently established in the country.

Provisional character of the legal submissions of the Government of Liechtenstein

21. The above legal submissions, as well as their more detailed elaboration in the sections which follow, are necessarily of a preliminary nature. The Government of Guatemala, by persistently refusing to explain its conduct and to reply to the representations of the Government of Liechtenstein made in 1951 preliminary to the institution of proceedings in this case, has made it difficult for the latter to ascertain on what legal grounds the Government of Guatemala purports to support its action. These grounds can only be surmised by implication from the action taken by the Government of Guatemala. However, it is possible that that Government may rely on other grounds. In that case the Government of Liechtenstein reserve the right to answer them fully in the course of the written and oral proceedings¹. This is also the reason why the

¹ For the reasons stated, the Government of Liechtenstein regret that they are not able at this stage of the proceedings to give the Court particulars of all the decrees or orders of the Government of Guatemala on which all the wrongful acts directed against Mr. Nottebohm are founded.

Government of Liechtenstein have not considered it feasible, at the present stage of the proceedings, to examine in detail and to anticipate any possible objections of the Government of Guatemala that Mr. Nottebohm has not exhausted the local remedies available to him under the law of Guatemala. For the same reason the Government of Liechtenstein must reserve for themselves the right to ask the Court to make use of its power under Article 64 of its Statute to award costs to the Government of Liechtenstein against the Government of Guatemala. By refusing to explain and to adduce a legal justification for its action, the latter government has compelled the Government of Liechtenstein to explore, at considerable cost and inconvenience, the numerous legal aspects of the case now before the Court—possibly only to find in the end that the Government of Guatemala is relying on altogether different defences which are not easily apparent from the available documents.

Section II

The question of nationality

The nationality of Mr. Nottebohm

22. In view of the fact that, apparently, the measures taken by the Government of Guatemala against Mr. Nottebohm, who is a national of Liechtenstein, were taken against him on the ground that, according to the legislation of Guatemala, he was to be considered as a German national, it is of importance to consider in the first instance the question of the nationality of Mr. Nottebohm in relation to the relevant legislation of Guatemala.

Article 7 of decree 630 of the 25th May 1949 (Annex 14) provided that :

"For the purposes covered by Article 3 of this law all the assets are considered enemy property which belong to :
(a) Private persons or corporations with which the Republic was at war, or who held such nationality on the seventh of October 1938, even though they claim to have acquired another nationality subsequently."

The Government of Liechtenstein admit (see para. 3 above) that until the 13th October 1939 Mr. Nottebohm was a German subject and that, but for his previous acquisition of Liechtenstein nationality, he would fall within the category of persons described as "enemy" in Article 7 of decree 630. However, Mr. Nottebohm validly acquired the nationality of Liechtenstein at a moment when Guatemala had not yet entered the war against Germany. In the view of the Government of Liechtenstein, it was, therefore, not open to the the Government of Guatemala arbitrarily to select the date of the 7th October 1938 for the purposes of defining an "enemy" in Article 7 of decree 630 and thereby to render inoper-

ative the acquisition by Mr. Nottebohm of Liechtenstein nationality. The duty of States to recognize the naturalization of individuals by other States is, therefore, directly in issue.

The duty to recognize the naturalization decrees of foreign States

23. The existence of a rule of international law that each State has a right to confer its nationality upon individuals who apply for it and that other States are bound, as a rule, to recognize that new nationality, acquired validly and in good faith under the law of the State granting it, is clearly established by the general principles of international law, the practice of States and the awards of international tribunals.

The practice of States

24. In connection with the Hague Conference of 1930, a number of States gave expression to their views as to the rights and duties of States in this matter in conformity with the rule formulated in the preceding paragraph (see Conference for the Codification of International Law, *Bases of Discussion*, Vol. I, *Nationality*, 1929, pp. 1 *et seq.*). The point on which the replies of the governments were solicited was expressed in this form :

"It appears necessary to take as the point of departure the proposition that questions of nationality are in principle matters within the sovereign authority of each State and that in principle a State must recognize the right of every other State to enact such legislation as the latter considers proper with regard to the acquisition and loss of its nationality. The consequence should be that any question as to the acquisition or loss of a particular nationality by any person is to be decided by application of the law of the State of which the person is claimed to possess, or not to possess, the nationality.

Are there, however, limits to the application of these two principles? Is there no limit to the right of the State to legislate in this matter? Is a State bound in every case to recognize the effects of the law of the other State?" (*Ibid.*, p. 13.)

Practically all the replies to this question recognized that each State possesses the right to regulate the acquisition and loss of its nationality. The Hague Codification Conference subsequently adopted, as Article 1 of the Convention on certain questions relating to conflict of nationality laws of the 12th April 1930, the following provision :

"It is for each State to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality." (League of Nations document, C.224.M.III.1930. V, p. 81.)

Article 2 of the same Convention provided as follows :

"Any question as to whether a person possesses the nationality of a particular State shall be determined in accordance with the law of that State."

The correlative duty to recognize the naturalization decrees of foreign States, in addition to being embodied by implication in the above-quoted articles of the Convention on certain questions relating to conflict of nationality laws, was given expression in the replies of several States. Thus Chile (at p. 14) stated that :

"It accordingly recognizes, and holds that it is compelled to recognize, the effects of the law of other States concerning nationality, but only in so far as this recognition does not involve the surrender or infringement of its own provisions regarding the acquisition and loss of Chilean nationality."

Denmark (at p. 14) observed that :

"Each State decides by its legislation what persons shall acquire or lose the nationality of the country, and it must consequently recognize the corresponding right of every other State to legislate on the acquisition or loss of nationality."

Switzerland suggested (at p. 19) that a State is bound to recognize the effects of the law of another State on questions of nationality, "in so far as such law confines itself to regulating the national status of the nationals of the State itself, without touching on the question of any foreign nationality which they might later possess".

Though no express reference is made to the point in the Convention on Nationality concluded at the Seventh International Conference of American States (for text see 28 *American Journal of International Law* (1934), Official Documents, p. 63), to which Guatemala was a party, it is clear that underlying all the provisions of the Convention was the basic right of recognition for and duty to recognize the nationality laws of foreign States. A similar assumption underlies Article 12 of the Code of Private International Law ("Bustamante Code"), annexed to the Convention signed at Havana, February 20, 1928, which provides that :

"Questions concerning individual acquisition of a new nationality shall be determined in accordance with the law of the nationality which is supposed to be acquired." (See 23 *American Journal of International Law* (1929), p. 114.)

This Convention has been ratified by Guatemala.

25. Reference may also be made to the practice of States as manifested in the decisions of municipal tribunals. The general duty of States to recognize nationality as determined by the law of the foreign State concerned has been given clear expression by numerous decisions of English courts. Thus in *Stoeck v. Public Trustee*, [1921] 2 Ch. 67, the Court held that the question whether a person is a national of a country must be determined by the

municipal law of that country "... there is not and cannot be such an individual as a German national according to English law"¹. With special regard to naturalization it was held in the Netherlands in *In re Van A.* that naturalization by Estonia must be recognized by the Dutch courts (*Annual Digest of Public International Law Cases, 1935-1937, Case No. 126*). In the case of *Marie Taamy and Others v. Adde Taamy and Others* (*ibid.*, Case No. 128), the Court of Appeal of Egypt held that an Italian decree conferring nationality upon a person who might otherwise have been an Egyptian or a Syrian national was effective and must be recognized in Egypt. The position with regard to denaturalization is subject to the exceptions referred to below (see para. 27), essentially the same. Thus in *U.S. ex rel. Steinworth v. Watkins* ((1947), 159 F. 2d. 50; *Annual Digest of Public International Law Cases, 1947, Case No. 41*), the United States Circuit Court of Appeals stated:

"Since it has been clearly shown that the denaturalization was a governmental act performed within the territory of Costa Rica, we cannot sit in judgment upon its validity, but we must accept it as a lawful cancellation of the appellant's Costa-Rican citizenship because done by a foreign sovereign within its own country."

The practice of international tribunals

26. In *Apostilidis v. Turkish Government* (*Annual Digest of Public International Law Cases, 1927-1928, Case No. 207*), the Franco-Turkish Mixed Arbitral Tribunal held that the effects of naturalization granted by one State ought to be recognized not only by the authorities of that State but also by the judicial and administrative authorities of all other States. Similarly, in the case of "*Generalala*" *et al. v. Sternberg* (*Annual Digest of Public International Law Cases, 1925-1926, Case No. 304*), the Roumanian-Hungarian Mixed Arbitral Tribunal held that it could not attribute Hungarian nationality to a person who was validly released from that nationality by an act of the Hungarian State.

Exceptions to the duty to recognize foreign acts of naturalization or denationalization

27. The Government of Liechtenstein do not contend that there are no limits to the obligation to recognize foreign legislation in the matter of nationality and foreign naturalization or denationalization decrees. The replies of States to the questionnaires of the Sub-Committee of the Committee of Experts contained in the *Bases of Discussion* set out above at paragraph 24 and the jurisprudence of municipal tribunals point clearly to some such limitations. Thus the reply of Germany suggested that:

¹ See also, to the same effect, *In re Chamberlain's Settlement*, [1921] 2 Ch. 533.

"The application of this principle, however, should not go beyond the limits at which the legislation of the States encroaches on the sovereignty of another. For example, a State has no power, by means of a law or administrative act, to confer its nationality on all the inhabitants of another State or on all foreigners entering its territory. Further, if the State confers its nationality on the subjects of other States without their request, when the persons in question are not attached to it by any particular bond, as, for instance, origin, domicile or birth, the States concerned will not be bound to recognize such naturalization" (at p. 13).

Similarly, the Danish reply states :

"Again, there is the naturalization, even after the application has been made by the persons concerned, of foreign subjects dwelling in their own country. Doubtless this cannot take place without the consent of the government of the other country and, failing such consent, the latter could not be required to acknowledge it" (at p. 15).

Other—and similar qualifications of the general rule were promulgated in the replies of Great Britain (at p. 17), of the Netherlands (at p. 18), and it was stated on behalf of the United States (at p. 16) :

"While ... the Government of the United States has always recognized the fact that the acquisition or loss of the nationality of a particular State are matters which pertain primarily to domestic policy and are therefore determined by the domestic law of that State, it does not admit that a State is subject to no limitations in conferring its nationality on individuals. It has proceeded upon the theory, which is believed to be sound, that there are certain grounds generally recognized by civilized States upon which a State may properly clothe individuals with its nationality at or after birth, but that no State is free to extend the application of its laws of nationality in such way as to reach out and claim the allegiance of whomsoever it pleases. The scope of municipal law governing nationality must be regarded as limited by consideration of the rights and obligations of individuals and other States."

To refer to some examples of English practice, in time of war, English courts will not recognize the right of a British subject to become naturalized in an enemy country, and such naturalization will not be treated as valid for purposes of English law. *R. v. Lynch*, [1903] 1 K.B. 444. Similarly English courts will not give effect during war to denationalization decrees of the enemy State for the reason that to do so would be to make it possible for the enemy State to relieve persons who were its nationals at the outbreak of war from disabilities and restrictions imposed upon enemy aliens by English law¹. See also McNair, *Legal Effects of War* (3rd ed.,

¹ See *The King v. The Home Secretary, Ex parte L. and Another*, [1945] 1 K.B. 7.

1948), page 23. The courts of some States have refused to recognize a foreign act of naturalization as effectively divesting an individual of his former nationality when that former nationality was of the State of the forum and the requirements of the local law had not been met.

28. The Government of Liechtenstein do not consider that it is necessary at this point to elaborate the scope of these exceptions, for it is clear that they do not apply in the present case. In particular, Mr. Nottebohm was never a national of Guatemala. He acquired his nationality at a time when Guatemala was at peace with Germany. The nationality of Liechtenstein was not conferred upon him against his will or without his knowledge. On the contrary, as appears from the statement in paragraph 3 of Part I of this Memorial, Mr. Nottebohm expressly applied for the grant of Liechtenstein nationality. After careful consideration by the Government of Liechtenstein, the application was allowed and Liechtenstein nationality was conferred upon Mr. Nottebohm on the 13th October 1939, in compliance with Article 6 (*d*) of the Liechtenstein law of nationality of 1934. Repeated certificates were issued to him to this effect by the Liechtenstein authorities.

Effect of acquisition of Liechtenstein nationality. Divestment of German nationality

29. The consequence of the acquisition by Mr. Nottebohm of Liechtenstein nationality was that he thereupon—at a date substantially before the outbreak of war between Germany and Guatemala—became divested of his German nationality. The Government of Liechtenstein admit that there may exist situations in which an individual upon acquiring a new nationality may still retain his former nationality. They admit that in certain circumstances the retention of that former nationality might justify the treatment of that individual by another State as an enemy alien. This, however, is not the situation in this case. As the result of his naturalization in Liechtenstein, Mr. Nottebohm lost his German nationality. The question of whether Mr. Nottebohm continued to possess German nationality, despite his acquisition of Liechtenstein nationality, is a matter of German law and of German law alone. Evidence of the acceptance of this principle by the States of Central and South America, including Guatemala, is provided by the incorporation in the Code of private international law ("Bustamante Code"), annexed to the Convention signed at Havana, February 20, 1928, of the following provision: "Article 14. In the case of loss of nationality, the law of the lost nationality should be applied" (see *American Journal of International Law*, 23 (1929), Special Supplement, p. 114). Now the relevant provision of German law is clear and unambiguous. Article 25 of the German law of nationality of

22nd July 1913 (Flournoy and Hudson, *Collection of Nationality Laws*, New York, 1929, p. 306) provides that :

"A German who has neither his residence nor permanent abode in Germany loses his citizenship on acquiring foreign citizenship, provided the foreign citizenship is acquired as a result of his own application therefor or the application of the husband or legal representative ; ... Citizenship is not lost by one who before acquiring foreign citizenship has secured on application the written consent of the competent authorities of his home State to retain his citizenship...."

This article was the relevant provision of German law in force on the 13th October 1939.

The effect of the express recognition on the part of the Government of Guatemala of the Liechtenstein nationality of Mr. Nottebohm

30. As shown in paragraph 4 above, the Liechtenstein nationality of Mr. Nottebohm was expressly recognized by the authorities of Guatemala by the entry of Mr. Nottebohm's name in the Register of foreign nationality as a citizen of Liechtenstein. It might appear that if, as submitted in the preceding section, the Government of Guatemala were in any case under an international duty to recognize the Liechtenstein nationality of Mr. Nottebohm, then the express recognition of his Liechtenstein nationality was merely declaratory and corroborative of an international duty, and that therefore no particular importance need be attached to it. However, the fact of the express recognition on the part of Guatemala of the Liechtenstein nationality is not altogether irrelevant. This is so for the following three reasons :

(a) In the first instance, it may be properly considered that by expressly recognizing the Liechtenstein nationality of Mr. Nottebohm the Government of Guatemala waived any right which theoretically they might otherwise have had to question the validity of the new nationality acquired by Mr. Nottebohm. With this aspect of the situation there is connected the second reason which makes the express recognition of the Liechtenstein nationality of Mr. Nottebohm legally relevant.

(b) That reason is grounded in what may be described as the international doctrine of estoppel. In registering Mr. Nottebohm's change of nationality on the 31st January 1940, without comment or protest, the Government of Guatemala led Mr. Nottebohm to believe that they accepted and recognized the effectiveness of the decree of naturalization granted by the Government of Liechtenstein. In reliance upon this registration, Mr. Nottebohm continued to reside in Guatemala, to retain property and to develop his business there and to hold himself out as a Liechtenstein national. Thereafter, the Government of Guatemala, irrespective of what the position might be under its own municipal law, were precluded from denying as against the Government of Liechtenstein that

Mr. Nottebohm was a Liechtenstein national. It may be noted in this connection that the doctrine of estoppel, which is similar both in international and municipal law, is not, notwithstanding its apparent technical connotation, a formal and artificial rule of law. It is essentially grounded in considerations of good faith and honest conduct in the relations of States and individuals alike. If one party has by any clear and unequivocal act or assertion led the other party to believe that that act is valid or that assertion true and in reliance upon that act or assertion the second party has acted or refrained from acting in a manner which results in detriment to that party, the first party is thereafter precluded from denying as against the second party the validity of that act or the truth of that assertion.

The doctrine of estoppel has been frequently considered by international tribunals. In each case the decision of the tribunal has turned not upon the existence of the doctrine but upon the facts of the particular situation. Thus in the case of the *Serbian Loans*, the Permanent Court of International Justice examined the conduct of the holders of the Serbian bearer bonds to determine whether they had altered or impaired their original right to payment in gold francs (Series A, Nos. 20-21, at pp. 38-39). Again in the *Eastern Greenland* case, the Permanent Court of International Justice examined the conduct of Denmark, particularly between 1915 and 1921, in order to determine whether she had precluded herself from asserting sovereignty over Eastern Greenland (Series A/B, No. 53, at pp. 61-62). In each of those cases the Permanent Court held that the conduct of the party concerned did not in fact prevent it from making the claim in issue.

There are decisions of earlier arbitral tribunals where, on the facts, the tribunal found that a party was estopped or precluded from making a claim or relying upon a particular state of affairs. In the *Pious Fund* case the United States maintained that, quite apart from the plea of *res judicata*, Mexico was estopped by its conduct from questioning the jurisdiction of a previous joint commission. The Permanent Court of Arbitration accepted this contention (Scott, *The Hague Court Reports*, (1916), p. 3). Similar findings were reached in the *Venezuelan Preferential Claim* case (*ibid.*, p. 56) and in the *Russian Indemnity* case (*ibid.*, p. 298). In the *Shufeldt Claim (United States of America v. Guatemala*, reported in 24 *American Journal of International Law* (1930), 799, at p. 813), the tribunal held that :

"The Guatemala Government having recognized the liability of the contract for six years and received all the benefits to which they were entitled under the contract and allowed Shufeldt to go on spending money on the concession, is precluded from denying its validity, even if the approval of the Legislature had not been given to it."

(c) Thirdly, the fact of the previous express recognition of the Liechtenstein nationality of Mr. Nottebohm by the authorities of Guatemala brings prominently into relief the wrongfulness and offensiveness, contrary alike to international custom and comity, of the arbitrary and unilateral cancellation of Mr. Nottebohm's Liechtenstein nationality by Guatemala. It may not be easy to find in the history of international intercourse a precedent for a State attempting to divest an alien resident within its territory of his nationality, which that State itself has previously recognized, and to re-impose upon him a nationality which he formerly possessed.

31. In this connection the Government of Liechtenstein wish to point out that it is not open to the Government of Guatemala to assert that their various measures, far from constituting an attempt to deprive Mr. Nottebohm of his Liechtenstein nationality, merely amounted to treating him as *if he were* a German national. While the wording of Article 7 of decree 630 may possibly lend itself to some such interpretation, it cannot be denied that in general the enactments and measures of the Government of Guatemala expressly refused to recognize the legal consequences of the acquisition of Liechtenstein nationality by Mr. Nottebohm in 1939.

Conclusions of Section II

32. The Government of Liechtenstein submit that it is clearly established that on the 13th October 1939, after application was made in due and proper form and carefully considered by the relevant authorities, Mr. Nottebohm, in conformity with the law of Liechtenstein and contrary to no provision of the law of Germany, acquired the nationality of Liechtenstein; that, at the same time, in accordance with the relevant provisions of German law, Mr. Nottebohm ceased to be a German national and that in consequence the Government of Guatemala were bound to consider and treat Mr. Nottebohm as the subject of a friendly State at peace with Guatemala. In so far as the conduct of the Government of Guatemala is based upon a refusal to recognize the legal consequences of these events, it is contrary to international law and involves the international responsibility of Guatemala. As the result of the conduct of Guatemala in registering and recognizing the Liechtenstein citizenship of Mr. Nottebohm, the Government of Guatemala was and is precluded from denying that Mr. Nottebohm was and is a citizen of Liechtenstein. In the circumstances the express cancellation of the Liechtenstein nationality of Mr. Nottebohm constituted an aggravation of the international delinquency resulting from the refusal to recognize Mr. Nottebohm as a national of Liechtenstein.

Section III

The treatment of Mr. Nottebohm by the Government of Guatemala and the obligations of a belligerent with regard to the treatment of the person and property of nationals of a neutral State

A

The treatment of the person of neutral nationals

Introductory

33. The Government of Liechtenstein have submitted in the preceding section that since 13th October 1939 Mr. Nottebohm was a Liechtenstein national; that the Government of Guatemala were bound to recognize and treat him as such; that in fact they did, up to the date of the purported cancellation of his Liechtenstein nationality, recognize him as such; and that any refusal to recognize and treat him as such constituted a violation of international law on the part of the Government of Guatemala. In view of this, any measures taken by the Government of Guatemala against the person and property of Mr. Nottebohm must be considered to have been taken against the property of an alien who was—and is—a national of a State at peace with Guatemala. In so far as Guatemala was at the material time a belligerent, these measures must be considered as having been taken against a national of a neutral State. Accordingly, it is proposed in the present section to consider, by reference to the action taken by the Government of Guatemala, the relevant principles governing the treatment of aliens, and in particular the treatment in time of war of aliens who are nationals of a neutral State.

General principles of the treatment of the person of a neutral national

34. It is a generally recognized rule that the status of nationals of a neutral country residing in the country of a belligerent is not affected by the outbreak of war. They continue to be entitled, subject to the exigencies of war, to the same treatment to which generally aliens are entitled in the territory of a foreign State. If the exigencies of war so require they may be called upon to participate in some form of national service; they may be assigned, in cases of grave suspicion substantiated by proper enquiry, or in case of military emergency, to some special place of residence; they must submit, subject to compensation, to measures of requisition of their property. However, apart from these circumstances, the duties which international law imposes upon States with regard to the treatment of aliens—in particular with regard to proper safeguards in the matter of arrest, detention and expulsion—remain the same in time of peace and war.

Arbitral practice in the matter of arrest of alien nationals of a neutral State

35. While it is unnecessary to elaborate the above proposition by citation from authorities, reference may be usefully made to some relevant arbitral decisions.

In the *Chevreau Claim (France v. The United Kingdom (1931), Reports of International Arbitral Awards, Vol. II, p. 1113)*, which arose out of the arrest and subsequent expulsion of a French national by British forces during the conduct of military operations in Persia, M. Beichmann, the sole arbitrator, summarized the relevant principles in this form :

"(1) The arbitrary arrest, detention or deportation of a foreigner may give rise to a claim in international law. But the claim will not lie if these measures were taken in good faith and upon reasonable suspicion, particularly in a zone of military operations.

(2) In cases of arrest, suspicions must be verified by a serious inquiry in which the arrested person is given an opportunity to defend himself against the suspicions directed against him, and in particular to communicate with the consul of his country if he so requests. If there is no inquiry, or if it is unduly delayed, or, in general, if the detention is unnecessarily prolonged, there is ground for a claim.

(3) The detained person must be treated in a manner fitting his station, and conforming to the standards habitually practised among civilized nations. If this rule is not observed, a claim will lie."

In the case of *Nacios v. Germany*, the German-Greek Mixed Arbitral Tribunal applied the principle that, while the arrest of a neutral by the authorities of a belligerent is not in itself illegal, judicial inquiry to determine the justification of the arrest is required. If there is no inquiry and if the suspected person has been wrongfully arrested, he is entitled to compensation for damage suffered in consequence of the wrongful detention (*Annual Digest of Public International Law Cases, 1929-1930, Case No. 299*). The same tribunal held in *Palios v. Germany (ibid., p. 509, n. 1)*, a case in which the Greek proprietor of a restaurant in Bucarest had been detained for three months, that "the arrest and detention of a neutral foreigner, if not followed by a judgment involving conviction or the payment of compensation, constituted an act contrary to international law....".

Moore, in his *Digest of International Law, Volume VI, page 888*, in referring to a claim by a United States citizen for wrongful arrest during the Franco-German War of 1870, observes that:

"The mere temporary arrest and detention of a citizen of the United States in France at the time of the siege of Paris, during the Franco-German War of 1871, does not, by itself, give ground for a claim against the French Government unless it can be shown that the arrest was without excuse or probable cause."

36. It appears from the facts set out in paragraph 11 of Part I of this Memorial that there existed no such proximate danger as would constitute a probable cause or excuse for the arbitrary arrest and detention of Mr. Nottebohm. Mr. Nottebohm was not a spy; nor could he be reasonably suspected of spying. The active conduct of hostilities was taking place in a distant theatre of war far removed from the territory of Guatemala. No attempt was made to comply with the requirement of proper judicial enquiry.

37. Having regard to the above circumstances, it is clear that there did not exist in the present case any special factors which could be adduced as a justification for a departure from the ordinary rules of international law in the matter of the arrest and detention of aliens. These principles are simple and, on the whole, non-controversial.

The arrest and detention of an alien may involve the international responsibility of the State on two grounds: either because the arrest is itself initially a breach of international law or because the arrest, though not itself unlawful, is carried out in such a manner as subsequently to give rise to international liability. In arresting and detaining Mr. Nottebohm, the Government of Guatemala rendered itself liable on both grounds.

38. While the Government of Liechtenstein do not know the precise grounds for the arrest and detention of Mr. Nottebohm, they apprehend that one possible ground may be the terms of Article 13 of Governmental decree 2655 of the 23rd December 1941 (Annex 9). This article provides that

"The Government shall be able to order the internment of nationals of the countries with which the Republic is at war, whenever their attitude suggests that they are engaging in activities which are subversive or dangerous to the security of the nation and of its institutions. Native or naturalized Guatemalans who are found in the same suspicious circumstances will be submitted to a judicial enquiry before the competent authorities."

If Mr. Nottebohm was arrested because the Government of Guatemala chose to treat him as an enemy national, when in truth he was the citizen of a neutral State, then that arrest and any subsequent detention were *ipso facto* illegal, no matter in how humane a fashion that arrest may have been carried out.

39. Admittedly a State may arrest an alien for breach of the local law or on reasonable suspicion that he is about to commit or has committed a breach of the law. No such allegation, however, was made against Mr. Nottebohm in this case. Indeed, it is one of the complaints of the Government of Liechtenstein that no allegations at all were made against Mr. Nottebohm and that, apart from the possibility referred to in the previous paragraph, the grounds for his arrest are unknown. To the extent that those grounds may

be surmised, they might refer to the existence of a state of war and emergency. However, as already observed, in the absence of special circumstances, those factors alone cannot provide a sufficient justification for the arrest and imprisonment of a friendly alien.

In these circumstances it is hardly necessary to refer more than briefly to the following two factors which aggravate the patent illegality of the action of the Government of Guatemala.

The right to prompt trial

40. In the first place, the Government of Guatemala failed to take the earliest opportunity, as required both by the provisions of its own constitution and by standards established by international law, to ensure that Mr. Nottbohm was granted with the least possible delay an opportunity to hear and meet the charges or allegations made against him. Again, while it is unnecessary at this stage to elaborate that proposition by citation from authorities, reference may be made to some arbitral decisions bearing on the question. Thus, in addition to the principles formulated in the *Chevreau* case (*supra*, para. 35), mention may be made of the *Roberts* case and the *Chattin* case. In the *Roberts* case, decided by the United States-Mexico General Claims Commission (*Opinions of the Commissioners*, 1927, p. 100), the Commission said, at page 103:

"In order to pass upon the complaint with reference to an excessive period of imprisonment, it is necessary to consider whether the proceedings instituted against Roberts while he was incarcerated exceeded reasonable limits within which an alien charged with crime may be held in custody pending the investigation of the charge against him. Clearly there is no definite standard prescribed by international law by which such limits may be fixed.... Doubtless an examination of the local laws fixing a maximum length of time within which such a person charged with crime may be held without being brought to trial may be useful in determining whether detention has been unreasonable in a given case.... Having in mind particularly that Roberts was held for several months without trial in contravention of Mexican law, the Commission holds that an indemnity is due on the ground of unreasonably long detention."

Similarly, in the *Chattin* case, the same Commission said (*Opinion of the Commissioners*, 1927, p. 422, at p. 440):

"Irregularity of court proceedings is proven with reference to absence of proper investigations, insufficiency of confrontations, withholding from the accused the opportunity to know all of the charges brought against him, undue delay of the proceedings, making the hearings in open court a mere formality, and a continued absence of seriousness on the part of the court."

Safeguards in the Constitution of Guatemala for the liberty of individuals

41. Secondly it is pertinent to note in this connection that the conduct of the authorities of Guatemala in this matter seems to have been inconsistent with the clear provisions of the Constitution of Guatemala. Reference to the Constitution of Guatemala of the 11th December 1879, as revised on the 20th December 1927, shows that arbitrary arrest, detention *incomunicado*, and detention for more than 48 hours without trial were contrary to the constitutional provisions of Guatemala in operation in 1943. These provisions remain substantially unchanged in the Constitution of 1945.

Responsibility of the State for the expulsion of aliens

42. It appears clearly from the statement of facts in Part I of this Memorial (see paras. 12 and 13) that the action of the Government of Guatemala amounts to an unjustified expulsion of Mr. Nottebohm in a manner involving the international responsibility of Guatemala. The Government of Liechtenstein reserve the right to submit that such expulsion took place by the very fact of the unlawful deportation of Mr. Nottebohm for internment in the United States. In any case it is clear, in the submission of the Government of Liechtenstein, that the refusal of the Government of Guatemala to readmit Mr. Nottebohm, subsequent to the termination of his unlawful interment and at a time when all hostilities had ceased, was tantamount to expulsion in peace time; and that such refusal was unwarranted and arbitrary; that it amounted to expulsion which is unlawful in the contemplation of international law; and that it engages the international responsibility of Guatemala.

43. While in principle a State is entitled to expel aliens from its territory, this right is subject to the qualification, common to the exercise of any right in international law and especially compelling in this instance, that it may not be exercised unjustifiably, arbitrarily, or in such a way as to constitute an abuse of rights. International practice and arbitral decisions have accepted the rule that, with regard to aliens who have been long resident in the country and who have established themselves in business generally and in a lawful profession or occupation, there is a duty upon the expelling State to adduce satisfactory reasons for the measure of expulsion. It is in particular with regard to such aliens that the consequences of harsh and unjustifiable expulsion have been given pungent expression by the Supreme Court of the United States when it stated that deportation may result in the loss "of all that makes life worth living" (*Ng Fung Ho v. White*, 259 U.S. 276, 284).

Practice of international tribunals

44. International tribunals have given frequent expression to that rule and to the reasons underlying it. Thus in the *Boffolo* case the umpire, Ralston, concluded :

"(1) A State possesses the general right of expulsion ; but (2) expulsion should only be resorted to in extreme instances, and must be accomplished in the manner least injurious to the person affected. (3) The country exercising the power must, when occasion demands, state the reason of such expulsion before an international tribunal, and, an inefficient reason or none being advanced, accepts the consequences. (4) In the present case the only reason suggested to the commission would be contrary to the Venezuelan Constitution [as interfering with freedom of speech], and as this is a country not of despotic power, but of fixed laws, restraining among other things the acts of its officials, these reasons (whatever good ones may in point of fact have existed) cannot be accepted by the umpire as sufficient." (Ralston, *Venezuelan Arbitrations*, (1903), pp. 696, 705.)

In the *Paquet* case, umpire Filtz said :

"the general practice among governments is to give explanations to the government of the person expelled if it asks them, and when such explanations are refused, as in the case under consideration, the expulsion can be considered as an arbitrary act of such a nature as to entail reparation, which is aggravated in the present case by the fact that the attributes of the executive power, according to the Constitution of Venezuela, do not extend to the power to prohibit the entry into national territory, or expelling therefrom the domiciled foreigners whom the government suspects of being prejudicial to the public order" (*ibid.*, p. 265).

In the *Costa* case, decided by the Mexican-American Commission of 1868, the umpire, Sir Edward Thornton, considered that, as there was no proof that the claimant had committed any violation of neutrality, the Mexican authorities were not justified "in taking him prisoner and in subjecting him to the treatment which he suffered and in requiring him to leave the Mexican territory" (*Moore's International Arbitrations*, p. 3724).

45. In so far as the expulsion of Mr. Nottebohm was attended by the harsh methods of sudden and in itself unjustifiable internment in a foreign country, it engages in itself the international responsibility of Guatemala. There exist numerous authorities in support of that proposition. Thus the arbitration held between Great Britain and Belgium under the Convention of March 19th, 1898, in *Ben Tillett's* case is clearly founded on the view shared by both the governments concerned and by the arbitrator that while Belgium was entitled to expel Ben Tillett and to detain him in so far as that might reasonably be necessary for the purposes of expulsion, that right was not to be exercised in a manner causing

excessive hardship (92, *British and Foreign State Papers*, p. 105; Hudson, *Cases on International Law*, (2nd ed. 1936), p. 1056). Reference may also be made in this connection to the award in the *Chevreau* case, cited above, paragraph 35.

In an impressive opinion in the *Daniel Dillon* case, Commissioner Nielsen said:

".... it would seem that in a case involving a complaint of arbitrary and harsh treatment in connection with expulsion, the fact that the measure of expulsion is invoked by a government is something of which account may be taken in appraising the nature of the harsh treatment. There may be no rule of international law or practice with regard to precise, proper methods of expelling an alien, such as those that have been suggested by writers.... But when resort is had to a use of unnecessary force or other improper treatment there may be ground for a charge such as is made in the instant case, account being taken of the manner in which expulsion might have been effected" (United States-Mexico Claims Convention, *Opinions of Commissioners*, 1929, p. 61, at pp. 63-64).

The practice of States

46. The general principle that a State may not exercise its right of expulsion in a manner either unreasonable or arbitrary has received repeated affirmation in the protests of States against the expulsion of their nationals from foreign States. It is an important feature of these incidents that the right of the home State to demand an explanation and the duty of the expelling State both to give satisfactory reasons and to carry out the expulsion in accordance with international standards has rarely been denied.

The Government of the United States has been foremost in asserting the rights of the expelled individual. In 1894 Mr. Gresham, the Secretary of State, instructed Mr. Smythe, the American Minister to Haiti, that

"The just rule would seem to be that no nation can single out for expulsion from its territory an individual citizen of a friendly nation without special and sufficient grounds therefor. And even when such grounds exist the expulsion should be effected with as little injury to the individual and his property interests as may be compatible with the safety and interest of the country which expels him" (United States, *Foreign Relations*, 1895, II, 801, 802, as quoted in Hyde, *International law chiefly as interpreted and applied by the United States* (2nd rev. ed.), Vol. I, p. 230, n° 3).

Similarly in 1896 Secretary Olney informed Mr. Young, the United States Minister to Guatemala, that

"the modern theory and practice of Christian nations is believed to be founded on the principle that the expulsion of a foreigner is justifiable only when his presence is detrimental to the welfare

of the State, and that when expulsion is resorted to as an extreme police measure it is to be accomplished with due regard to the convenience and the personal and property interests of the person expelled" (Moore, *Digest of International Law*, Vol. IV, pp. 102, 103).

47. The attitude of Brazil is illustrated by a reference in Accioly's *Traité de Droit international*, volume I (1940), page 597, to the correspondence between the Brazilian and United States Governments on the occasion of the passage in 1907 of a law in Brazil relating to expulsion of aliens. The Brazilian Minister for External Affairs, while asserting the right of Brazil to expel aliens, limited that right to the expulsion of "étrangers nuisibles à l'ordre public ou aux bonnes mœurs". He added that the new law surrounded the exercise of this right with substantial safeguards for the position of foreigners.

Many States make special provision in their constitutional law safeguarding aliens against arbitrary expulsion and thereby affording implicit recognition of the duty of States not to act in an unjustifiable manner. The Havana Convention on the status of aliens, concluded at the Sixth International Conference of American States and to which Guatemala was a party, provides in Article 6 that: "For reasons of public order or safety, States may expel foreigners domiciled, resident or merely in transit through their territory."

Views of writers

48. There is practically complete unanimity among writers on the general principles relating to expulsion and on the circumstances and manner in which it may justifiably be employed.

Hyde, with particular reference to the practice of the United States, says:

"Expulsion may savor of an abuse of power if the decision to expel be not founded on a *bona fide* belief as to the evil effect upon the State of the continued presence of the individual within its domain.... Thus arbitrary action, either in the choice of the individual expelled, or in the method of expulsion, would indicate an abuse of power and point to internationally illegal action" (Hyde, *op. cit.*, pp. 230-231).

".... The reasonable exercise of the privilege of expulsion would appear to demand some respect for the consequences of the connection between the alien and his habitat. Thus the procedure that might not be inequitably applied to a transient visitor, may, on the other hand, work grave hardship to one who, through a protracted residence within the territory of the expelling State, has dug his roots deep into its commercial or economic life as a participant therein" (*op. cit.*, p. 233).

Professor Sibert in his *Traité de Droit international public*, volume I, page 311, n. 6, states:

“Comme on le sait, l'État a le droit d'expulser, afin de faire respecter sa sécurité, des étrangers qui présentent des dangers pour sa conservation. Mais il ne peut pas expulser sans raison, ou dans un but autre que celui de sa propre défense, ni encore en accompagnant l'expulsion de rigueurs qui ne sont pas nécessaires, par exemple emprisonnement, coups, mauvais traitements.”

Again, at page 621, the same author writes :

“Il s'ensuit qu'une expulsion ne saurait être arbitraire, sans cause, et qu'elle ne se justifie que si les agissements de l'expulsé sont véritablement attentatoires à la sécurité de l'État intérieure, extérieure, matérielle ou morale. Le danger dont il s'agit devra être certain et non pas hypothétique, imminent et non pas éloigné, vraiment grave et non pas supposé. A l'État qui l'invoque il incombe d'en administrer la preuve dans les diverses circonstances où cette preuve peut être requise.”

Writing of the manner in which the right of expulsion (when it exists) must be exercised, Professor Sibert continues (at p. 625) :

“Toute expulsion doit être accomplie avec les égards que comporte le respect des droits acquis et de la personne des individus. En conséquence, un délai raisonnable devra être accordé à l'étranger objet de la mesure pour mettre des affaires en ordre avant qu'il se rende librement à la frontière ou qu'on l'y conduise. L'expulsion ne doit pas non plus comporter des rigueurs que ne dicte pas la nécessité de la mener à bien la responsabilité de cet État serait engagée si le motif de l'expulsion venait à méconnaître soit les stipulations des traités, soit les dispositions de la loi locale, soit simplement le principe que l'expulsion ne peut avoir lieu qu'en vue des intérêts de conservation de l'État.”

Similarly, M. Accioly in his *Traité de Droit international public*, volume I (1940), page 596, states that

“le droit d'expulsion de l'État ne peut être exercé arbitrairement ; c'est-à-dire qu'il doit être subordonné aux strictes nécessités de sa défense ou de sa conservation”.

Professor Podesta Costa formulates the rule in the following manner :

“Segun una norma establecida por la costumbre internacional, todo Estado puede expulsar de su territorio al extranjero cuya presencia sea perjudicial para el orden o la seguridad pública. El derecho interno de cada Estado legisla a ese respecto teniendo especialmente en vista a los espías, conspiradores, delincuentes consuetudinarios, agitadores sociales o a los que se inmiscuyan en actividades políticas, y a veces establece la expulsión como un accesorio de una condena penal al quedar cumplida la pena impuesta”
(*Manual de Derecho Internacional Público*, 2nd ed. (1947), p. 136).

The Institute of International Law devoted particular attention to the position of the domiciled alien in their resolutions of 1892 relating to the admission and expulsion of aliens. Article 41 provides :

"L'expulsion d'étrangers domiciliés, résidants ou ayant un établissement de commerce, ne doit être prononcée que de manière à ne pas trahir la confiance qu'ils ont eue dans les lois de l'État. Elle doit leur laisser la liberté d'user, soit directement, si c'est possible, soit par l'entremise de tiers par eux choisis, de toutes les voies légales pour liquider leur situation et leurs intérêts, tant actifs que passifs, sur le territoire" (*Annuaire*, vol. III, 1892-1894, p. 226).

Expulsion of aliens in time of war

49. The Government of Liechtenstein admit that the existence of a state of war may justify, with regard both to the fact and the manner of expulsions, governmental action which in peace time would not be justifiable. However, although this qualification is commonly agreed upon by writers, they set clear limits to this extension of the right of expulsion.

Thus Hyde, *op. cit.*, page 235, states as follows:

"The exigencies of war may justify the action of a belligerent in expelling from its territory aliens whose presence there might not, under normal circumstances, be regarded as dangerous to the safety of the State or gravely detrimental to its welfare. The rare fact of war suffices to excuse the expulsion of aliens who are nationals of the enemy, should the territorial sovereign deem it expedient to take such a step."

The view expressed by Professor Sibert, *op. cit.*, page 621, is:

"S'agit-il d'étrangers ressortissants de pays neutres, l'État belligérant ne saurait les expulser qu'autant que leurs agissements individuels se révèlent dangereux pour la sécurité de l'État."

The Institute of International Law, in the Rules which it formulated on the admission and expulsion of aliens, proposed in Article 10 that among those who might lawfully be expelled were "les étrangers qui, en temps de guerre ou au moment où une guerre est imminente, compromettent, par leur conduite, la sécurité de l'État" (*Annuaire*, vol. III, 1892-1894, p. 224).

50. In the light of the substantial weight of authority cited above, the Government of Liechtenstein submit that there can be no doubt that the action of Guatemala in expelling Mr. Nottebohm was an act illegal in international law on account both of the grounds on which it was done and of the manner in which it was performed.

The refusal to readmit Mr. Nottebohm

51. In the preceding paragraph the Government of Liechtenstein have submitted that the circumstances in which Mr. Nottebohm was deported and interned abroad amount to an unjustified and arbitrary expulsion involving the international responsibility of Guatemala. The Government of Liechtenstein submit, further,

that the refusal of Guatemala to allow Mr. Nottebohm to return to the country of his ordinary residence, from which he was removed in violation of his rights under international law, constitutes in itself an unjustified and unlawful measure of expulsion. This would be so even if (an assumption which the Government of Liechtenstein do not admit) his deportation and internment, having taken place in time of war and in the stress of the circumstances of the war, had been lawful. In the circumstances, the refusal of Guatemala to readmit Mr. Nottebohm, despite his repeated application, constituted an abuse of right. If an alien acquires by long residence in a State a right to continue to reside there, a right which international law protects by prohibiting his arbitrary expulsion, it follows that that right continues to exist even if the alien temporarily departs from the State of his permanent residence. It certainly continues in cases in which his departure was involuntary. If upon an intimation from the alien that he desires to return the State refuses to readmit him, it does indirectly what it is not entitled to do directly, that is to say, to expel him. In such cases the refusal to readmit an alien amounts to an abuse of the right to regulate the admission of aliens.

This proposition is so obvious that it is not strictly speaking necessary to invoke in support of it the so-called doctrine of abuse of rights—a doctrine which is not without support in the literature of international law and in decisions of international tribunals including the Permanent Court of International Justice itself (see the case concerning *Certain German Interests in Polish Upper Silesia*, Series A, No. 7, p. 30, and *Free Zones of Upper Savoy and the District of Gex*, Series A, No. 24, p. 22, and Series A/B, No. 46, p. 167). As Professor Lauterpacht has observed, after examining the awards of arbitral tribunals in cases arising out of the expulsion of aliens:

“The conspicuous feature of these awards is the view that the undoubted right of expulsion degenerates into an abuse of rights whenever an alien who has been allowed to take up residence in the country, to establish his business and set up a home, is expelled without just reason, and that such an abuse of rights constitutes a wrong involving the duty of reparation” (*The Function of Law in the International Community* (1933), at p. 289).

52. In the submission of the Government of Liechtenstein the same result follows in this connection in consequence of the well-known maxim *ex injuria jus non oritur*. It is a principle which has on a number of occasions received confirmation by the Permanent Court of International Justice and which is well established in the jurisprudence of international law. Thus, in the judgment in the case concerning the *Factory at Chorzów*, the Court rejected one aspect of the Polish objection to its jurisdiction by declaring that it is “a principle generally accepted in the jurisprudence of international arbitration, as well as by municipal courts, that

one party cannot avail himself of the fact that the other has not fulfilled some obligation or has not had recourse to some means of redress, if the former party has, by some illegal act, prevented the latter from fulfilling the obligation in question, or from having recourse to the tribunal which would have been open to him" (Series A, No. 9, p. 31). See also the observations of the Court in the *Free Zones* case (Series A, No. 24) and in the *Legal Status of Eastern Greenland* case (Series A/B, No. 53, p. 75). In the present case, having committed an international injury in wrongfully expelling Mr. Nottebohm, the Government of Guatemala did not, as they might have otherwise, acquire the right to refuse re-admission to Mr. Nottebohm.

53. Reference may be made in this connection to the practice of some Latin-American States which, in the matter of expulsion and re-entry, recognize the special position of the alien long resident in the country. The Supreme Court of Argentina in *In re Di Cesare* (*Annual Digest of Public International Law Cases*, 1938-1940, Case No. 119) and the Supreme Court of Mexico in *In re Yasimoto* (*ibid.*, p. 365, note) conceded that under the terms of the relevant Constitution aliens had, by residence of twelve and thirty years respectively, acquired special rights as resident aliens. In the Argentinian case the Supreme Court held that the alien in question was, under Article 14 of the Constitution, entitled to re-enter the country.

54. The Government of Liechtenstein submit that the right to readmission, in circumstances such as those in the present case, is a right analogous to, and supported by, the same authorities as the primary right to the specific restitution of property wrongfully seized, to which further reference is made in paragraph 70 below. The alien can waive this right to call for readmission and claim instead nothing more than the payment of damages. This is generally the course which is followed. In some cases, however, the alien may desire to return to the territory of the State which has wrongfully expelled him. The making of an attempt to return may well be an essential element in the duty of an alien to take all reasonable steps to mitigate the damages which he has suffered as a result of his expulsion. In this case particularly it is possible that if Mr. Nottebohm had been permitted to return to Guatemala he might have been able in some measure to restore his commercial position. Such an opportunity was denied to him. If it had been granted, the Government of Guatemala might well have enjoyed the benefit of the diminution of the loss suffered by Mr. Nottebohm under the head of expulsion. Instead, that Government has chosen to aggravate the initial injury of expulsion by the refusal to afford Mr. Nottebohm his primary remedy of return. It is now too late for the Government of Guatemala to retreat from that position. The return of Mr. Nottebohm which would have been feasible in

1946 is no longer feasible in 1952. Mr. Nottebohm no longer desires to return to Guatemala. However, in the submission of the Government of Liechtenstein, he is, in addition to the claim for the unjustified expulsion, entitled to claim that the refusal to re-admit him in 1946 is a factor to which substantial importance should be attached in the computation of damages.

B

The treatment of the property of neutral nationals in time of war

55. In the preceding sections of this part of the present Memorial, the Government of Liechtenstein have set forth the legal principles, as related to the case now before the Court, governing the responsibility of States, or in particular of a belligerent, in relation to the treatment of the *person* of aliens in their territories. It is now proposed to set forth, in relation to the present case, the rules and principles referring to the treatment of the *property* of neutral aliens in time of war.

56. If the Government of Guatemala had in time of peace attempted, in a discriminatory and arbitrary fashion and without the offer and payment of adequate compensation, to deprive a friendly alien of his property, the illegality of such a measure would have been patent and would render reference to authority almost redundant. However, in the view of the Government of Liechtenstein the fact that a state of war existed between Guatemala and some foreign countries at the time when Mr. Nottebohm was deprived of his property does not, in the present case, render the acts of interference with and confiscation of the property of Mr. Nottebohm any the less illegal. The seizure was in fact a belligerent act directed against a neutral national—an act unjustified by any stress of war or any unneutral conduct. It was, in the event, discriminatory, seeing that nationals of Guatemala were not treated in the same manner. It was, despite references to indemnification in the relevant decrees (see governmental decree number 3134, Articles 2 and 3; legislative decree number 114, Article 1, and legislative decree number 630, Article 4 (Annexes 10, 13 and 14)), entirely without compensation. Such indemnity as was nominally payable by the Republic of Guatemala was to constitute a fund for the benefit not of the expropriated owners, but for nationals of Guatemala who had suffered loss as a result of hostile action in the Second World War. None the less, the Government of Liechtenstein, in view of the fact that they have had no indication of the defences which the Government of Guatemala may put forward, feel that it will be convenient if they refer at this point to three possible grounds on which the Government of Guatemala may conceivably rely as justifying the seizure and confiscation

of the property of Mr. Nottebohm. These are : military necessity ; the right of requisition ; and the right of a belligerent to extend for purposes of municipal law the meaning of the term "enemy". With regard to the question of military necessity, the Government of Liechtenstein, though they are of the view that a defence based upon military necessity is entirely inappropriate to this case seeing that no such necessity ever arose, consider that it may be convenient to indicate the very narrow limits within which the doctrine may operate. With regard to the right of requisition, the Government of Liechtenstein submit that in no circumstances whatever is there any right to requisition neutral property without a duty to pay compensation. Lastly, with respect to the right of a belligerent to extend for purposes of municipal law the definition of the term "enemy", the Government of Liechtenstein will contend that this may be done only within very narrow and well-recognized bounds and that if those limits are overstepped--as they clearly were in the present case--the international responsibility of the State is involved.

57. (a) *Military necessity.*—The authorities to which the Government of Liechtenstein refer below show clearly that in time of war, in certain circumstances amounting to imperative military necessity, a neutral may be deprived of his property without compensation. Such interference with property usually takes the form of damage to or destruction of the property in the course of military activities. The essence of such interference is not only that it is unavoidable, but that it is for temporary purposes and involves no change of title. None of those factors are present in this case. Neither actual military operations nor even the threat of them was the occasion of the seizure of Mr. Nottebohm's property. Moreover, some property was taken after the termination of hostilities. The seizure was intended to be permanent and to be accompanied by a change of title. In those circumstances the Government of Liechtenstein contend that the doctrine of military necessity and of the assumption of local risks, to which the authorities which follow refer, is wholly inapplicable in the present case.

58. The general principle referred to above has been expressed by Borchard (*The Diplomatic Protection of Citizens Abroad* (1916)) in the following terms (at p. 113) : "The person and property of neutrals are in principle subject to such exceptional measures of jurisdiction and to such exceptional taxation and seizure for the use of the State as the existence of hostilities may render necessary, provided that no greater burden is imposed upon aliens than upon nationals." Coleman Phillipson, in *International Law and the Great War* (1915), states (at p. 72) that "the property of neutral individuals which is permanently situated in belligerent territory is, equally with the property of subjects, liable to be seized, used or destroyed if urgent military interests demand ; and there is no legal duty to

pay compensation, though this might well be done as an act of grace". Even when the rights of the neutral are expressed at their lowest, emphasis is placed upon the necessary relation of hostilities to the damage or seizure. Thus Professor Bentwich in *The Law of Private Property in War* (1907) observes (at p. 27) that: "On land, the property of neutrals is not treated differently from that of enemies, nor has the neutral any more legal right to compensation for damage done *incidentally*.... Even when the property of domiciled neutrals is taken possession of or destroyed *for strategic reasons* by either belligerent, compensation need not be paid to the owners for the loss they have sustained."

59. The practice of international arbitral tribunals fully substantiates the principle set out above. In *William Hardman's Claim*, decided in 1913, the American and British Claims Arbitral Tribunal applied the rule that there is no legal obligation upon a belligerent to pay compensation for damage done in the course of necessary acts of war. In 1898, during the war between the United States and Spain, while the town of Siboney, Cuba, was occupied by the United States armed forces, certain houses were set on fire and destroyed by the military authorities in consequence of sickness among the troops and from fear of an outbreak of yellow fever. In one of these houses some personal property belonging to Hardman, a British subject, was entirely destroyed with the house itself. In dismissing the British claim for damages, the Tribunal said (at p. 881): "In law, an act of war is an act of defence or attack against the enemy and a necessity of war is an act which is made necessary by the defence or attack and assumes the character of *vis major*. In the present case, the necessity of war was the occupation of Siboney, and that occupation....involved the necessity....of taking the said sanitary measures.... In other words, the presence of United States troops at Siboney was a necessity of war and the destruction required for their safety was consequently a necessity of war....and according to the principle accepted by the two governments, it does not give rise to a legal right of compensation" (reported in *American Journal of International Law*, 7 (1913), p. 879). The same principle was applied by Judge Huber, Rapporteur, in the *Spanish Zone of Morocco Claims, Bene-Madan Rzni* case, between Great Britain and Spain (*Annual Digest of Public International Law Cases*, 1923-1924, Case No. 89).

In the *Luzon Sugar Refining Co., Ltd.*, case, decided by the British-American (1920) Arbitral Tribunal, Great Britain put forward a claim on account of damages to the sugar manufacturing plant of the claimant in the Island of Luzon in the Philippines during the insurrection of 1899. The claim was rejected on the ground that the damage was an incident of military operations. "The foreign residents whose property unhappily chanced to stand in the field of those operations have no ground for complaint

against the United States, which had no choice but to conduct them where the enemy was to be found" (Nielsen's *Reports* (1926), p. 586; *Annual Digest of Public International Law Cases*, 1925-1926, Case No. 164).

The German-Mexican Claims Commission in *In re Heyn, Wislicenus and Schmidt* rejected a claim presented on behalf of certain German nationals in respect of damage caused to their property by the forces of the legitimate Government of Mexico in the course of suppressing a rebellion. The Commission said: "If the protection of nationals and foreigners by the territorial sovereign constitutes a primary obligation, the failure to comply with which results in international responsibility, it follows that it is neither just nor equitable to punish a government which complies with it, nor to limit its authority to undertake legitimate acts of repression which may result in damage or loss to resident foreigners whom it must protect from insurrections just as much as its own nationals" (*Annual Digest of Public International Law Cases*, 1931-1932, Case No. 103).

In *E. R. Kelley v. The United Mexican States*, the United States-Mexico Claims Commission, in declining to grant compensation for the unexpired portion of a term of employment prematurely determined on account of the outbreak of hostilities between the United States and Mexico in 1914, said (Per Nielsen, Commissioner): "... we must take account of things which in the light of international practice have been regarded as *proper, strictly defensive measures employed in the interests of public safety*. Generally speaking, international law does not require that even nationals of neutral countries be compensated for losses resulting from such measures" (reported in *American Journal of International Law*, 25 (1931), p. 388, at 397).

The Commission sitting under the Convention between the United States and France of 15th January 1880 disallowed the claim of *Giles v. The Republic of France* for damages for the destruction during the Franco-Prussian war of 1870 of property owned by Giles, a United States citizen, apparently on the ground that the purpose of the destruction was to prevent the buildings being used by the German army for shelter (Moore's *International Arbitrations*, Vol. IV, p. 3703).

In *Castle's case*, the United States-Venezuelan Claims Commission said: "Neutral property in a belligerent's territory shares the fate of war the same as that of subjects or citizens. If injured or destroyed in battle or siege, in the absence of circumstances evincing wantonness or culpable neglect on the part of the government within whose jurisdiction it is, the public law furnishes the owner no redress against such government" (Moore's *International Arbitrations*, Vol. IV, p. 3710. See also *Wilson's case*, *ibid.*, page 3674).

60. As shown in the incidents recounted below, the practice of States is to the same effect. In a letter concerning a claim of an American citizen for losses inflicted upon him by French troops in Mexico in 1865, Mr. Fish, the American Secretary of State, said: "He claims, as an American citizen, resident in Mexico, compensation for loss and injuries sustained in Mexico, during a state of war, at the hands of a hostile invading army. It is an undoubted principle of public law that when one Power, in the exercise of its sovereign rights, deems it proper to exercise acts of hostility against the territory of another Power, the citizens of foreign States, residing within the arena of war, whose property may be injured or destroyed during the war, have no right to demand compensation on the ground of their being citizens of a third Power, for losses which the necessities of war may bring upon them in common with the citizens of the State invaded" (Moore, *Digest of International Law*, Vol. VI, p. 888).

When, in December 1870, Prussian troops took forcible possession of and scuttled six British colliers in the River Seine, the British Government protested that they could not "but consider the seizure and sinking of these vessels to be altogether unwarrantable, and the firing upon them, if it took place, a matter which requires the fullest explanation". The Prussian Government immediately admitted the claim to indemnification and promptly paid the full amount asked (*ibid.*, pp. 904-905).

In connection with the possibility of the presentation of a claim by the United States in respect of the damage to the property of United States citizens as a result of the bombardment of Valparaiso during the war between Spain and Chile, Mr. Seward, the United States Secretary of State, qualified the immunity of belligerents from claims by neutrals for injuries received in the course of hostilities in these words: "The injury, it may be conceded, must result from such military or naval measures as by the code of civilized warfare and the modern practice of nations are recognized as legitimate" (*ibid.*, p. 940).

61. (b) *The right of requisition.*—Having regard to the remoteness of Guatemala from the actual theatre of war, the hypothesis that the measures taken by Guatemala against the property of Mr. Nottebohm were dictated by military necessity appears quite unjustifiable. The same applies to the second alternative hypothesis, namely, that these measures were no more than requisition, in connection with the war, of the property of a neutral. However, in the absence of any legal justification of her action advanced by Guatemala so far, it is necessary to consider briefly that assumption.

The Government of Liechtenstein do not contend that a belligerent State has no right to acquire neutral property situate in its territory. There is general agreement that a right of this nature exists. In the case of neutral property permanently situated in

belligerent territory, it takes the form of "requisition". In the case of neutral property temporarily or involuntarily brought within belligerent territory, it is termed "angary". The practical difference between the two types of acquisition lies in the different standard of compensation payable, namely fair compensation in the case of requisition and full compensation in the case of angary.

In the present case there is, in the submission of the Government of Liechtenstein, no ground whatsoever for invoking the right of requisition. No reference is made to requisition in the decrees. The property seized is not such as is normally required for the purpose of requisition. The fact that such property has been taken only in respect of a particular class of individuals introduces an element of discrimination which would have rendered the seizure unlawful even if it had otherwise been lawful. Even if otherwise lawful, it would have become unlawful owing to the fact that no compensation was ever offered or paid to Mr. Nottebohm. The authorities to which reference is now made demonstrate that the duty to pay compensation is an essential part of the right of requisition.

The Permanent Court of Arbitration in the *Norwegian Ship-owners* case (Scott, *Hague Court Reports*, 2nd Series, p. 40) held that the United States, in requisitioning certain shipbuilding contracts which had been made by Norwegian shipowners with American shipbuilders, undertook an obligation to pay just compensation. Similarly in *Goldenberg & Sons v. Germany*, between Roumania and Germany (*Annual Digest of Public International Law Cases*, 1927-1928, Case No. 369), the Arbitrator held that requisitions were permitted by international law only subject to the duty to pay compensation. Consequently, although the requisition of the plaintiff's property did not originally constitute an act contrary to international law, it became an act contrary to international law when, after a reasonable time, the plaintiffs did not obtain full compensation. The general principle that a requisition implies the obligation to pay compensation was recognized by the Greco-German Mixed Arbitral Tribunal in *Eughenides v. German State* (*Annual Digest of Public International Law Cases*, 1929-1930, Case No. 296). The Tribunal said: ".... a requisition not accompanied or followed by an indemnity constitutes an act contrary to municipal and international law". The French-Mexican Mixed Claims Commission in the *Georges Pinson* case (*Annual Digest of Public International Law Cases*, 1927-1928, Case No. 370) held that military requisitions at the expense of subjects of a foreign State in times of revolution are not in themselves illegal according to the general principles of international law. The authorities of the State suffering from a revolution may as a rule lawfully exact requisitions from foreigners, on the same footing as from the nationals of the State, *but only on condition that they make full compensation*. During the Spanish

civil war, the United States Department of State instructed the American Embassy in Madrid that in the case of the requisition of American property for the necessities of war or otherwise the Government of the United States would be obliged to insist that provision be made for prompt and full compensation to the owner (Secretary of State Hull to the Embassy in Madrid, 3rd August 1936, printed in Hackworth, *Digest of International Law*, Vol. VI, p. 255).

There is similarly general agreement among writers that compensation must be paid in the event of requisition. Professor Lauterpacht, in a note on *Angary and Requisition of Neutral Property* in the *British Year Book of International Law*, Volume 27 (1950), page 455, states as follows: "In time of war a State is entitled to requisition the property of neutral subjects—as, generally, it is entitled to do in time of peace in relation to alien property provided that it pays compensation. Probably this need not amount to full compensation—although, if the compensation were disproportionately low, it would approximate to confiscation and the State would incur a corresponding international responsibility. However, so long as reasonable compensation is granted and so long as there is no discrimination against the neutral as compared with the State's own subjects or with other neutrals, both the requisition and the compensation (if not discriminatory or patently inadequate) must be regarded as warranted by international law." Likewise, Oppenheim, (*International Law*, Volume II 6th ed., revised by Lauterpacht, at page 626), in distinguishing angary from requisition, speaks of "... the right, which every State undoubtedly possesses, of seizing in case of emergency and subject to compensation, any foreign property on its territory". Hyde (*International Law* (2nd revised ed.), Vol. III, p. 1760) also recognizes the right of requisition subject to the duty to pay compensation.

It is significant that, wherever by international agreement, a right of requisition is granted to a belligerent, as by Article 52 of the Hague Regulations or Article 29 of the Declaration of London, the exercise of that right is expressed to be subject to the duty to pay compensation.

62. (c) *The right of a belligerent to include neutrals within the definition of "enemies"*.—The Government of Liechtenstein do not deny that in certain cases, especially in connection with legislation prohibiting trading with the enemy, international law recognizes that a State is entitled to treat a neutral national as if he were an enemy alien. Thus Dr. Domke, who has made the most exhaustive study of this problem in his work on *Trading with the Enemy in World War II* (New York, 1943 and 1947), states as follows (at p. 24): "The tests determining the enemy character of individuals have become fairly uniform. Residence within enemy territory

or carrying on business in such territory, is usually considered decisive to establish enemy qualification." The application of that test is common to the legislation of, among others, the United States, the United Kingdom and France (see also McNair, *Legal Effects of War* (3rd ed., 1948), pp. 51-52). However, it is only in circumstances such as those described above that international law permits the treatment of neutral nationals as if they are assimilated to enemy aliens. If that right were to become general, it would in effect enable a belligerent State to deprive a neutral citizen of his neutral status. In particular, it is not open to a State to seize neutral property within its territory on the ground that it is technically (within the meaning of a municipal statute) enemy property. In any case, such measures, being necessitated by the exigencies of the war, lose their *raison d'être* and must cease with the cessation of the emergency. They cannot—and legally must not—become a cloak for what is essentially predatory action.

Some indication of the view adopted by several States in this matter during the Second World War is provided in connection with the seizure without compensation by the United States of patents owned by Allied nationals, Norwegian, Belgian and Dutch, on the ground that by reason of the occupation of those countries by Germany the owners of the patents had under American law technically become enemies. The governments in exile of those three countries filed notes of protest with the Department of State inquiring "why the patents of nationals of countries unfortunate enough to have been occupied by the enemy should be exploited during wartime without compensation, whereas American citizens whose patents have been taken over for war purposes are receiving full compensation" (*New York Times* newspaper, 13th May 1942, p. 4, col. 8, cited in an article by R. M. Littauer on "Confiscation of the Property of Technical Enemy Aliens", in the *Yale Law Journal*, 52 (1942-1943), p. 739, at 740-741). An authority on the subject, in commenting upon the situation in respect of which the above protests were delivered, has observed that to the extent that the activities of the United States Custodian of Alien Property "may involve a confiscation of the property of technical enemies, it would seem that these would have claims against the United States for reparation regardless of what the peace treaties may provide as to actual enemies" (Wormser, *Collection of International War Damage Claims* (1944), p. 154).

Conclusions

63. In the light of these authorities and of the general principles which underlie them, the Government of Liechtenstein submit that the seizure by the Government of Guatemala of the property of Mr. Nottebohm was an unlawful act and involves the duty to pay reparation. Mr. Nottebohm was not an alien enemy. Nor could he properly be deemed to be one. No necessity of war, calling for

requisition or similar measures, could justify or was alleged to justify the seizure of his property. Even if originally justified, which is not admitted, it would have become unlawful as the result of the failure to pay compensation. Neither could the measures of seizure and confiscation taken by Guatemala be justified by reference to the exceptional right of the belligerent to treat, for some purposes, neutral property as assimilated to the property of enemy aliens.

Section IV

The question of damages

64. It is convenient to deal with the question of damages and other legal remedies which the Government of Liechtenstein claim on behalf of Mr. Nottebohm by separate reference: (a) to damages for unlawful arrest, detention, expulsion and refusal to readmit; (b) damages for unlawful interference with and deprivation of property.

A

Damages for unlawful arrest, detention, expulsion and refusal to readmit Mr. Nottebohm

65. The Government of Liechtenstein recognize that, apart from the general principle that the breach of an international duty involves the obligation to make reparation, an examination of the practice of international tribunals in awarding damages in cases of arrest, detention and expulsion, though it reveals the existence of certain factors to be taken into consideration, does not provide rules which can be applied by the Court without the exercise of a substantial degree of discretion. But it is clear that a State is under an obligation to pay, in the first place, special or particular damages, that is to say, a liquidated sum expended as a direct result of the wrongs committed, i.e. in the present case, the expenses incurred in Guatemala in seeking a remedy for the wrongs done to Mr. Nottebohm. While the Government of Liechtenstein are not at present fully informed of the precise extent of those expenses, according to the data received so far they are not less than 20,000 Swiss francs.

66. The real problem is that of the assessment of general damages, that is, the determination of the sum, the payment of which would notionally restore the injured person to the position in which he would have been, had the injury not occurred. In this respect, without resorting to any elaborate citation of authorities, the Government of Liechtenstein deem it useful to refer to the following observation of M. Beichmann, the Arbitrator in the *Chevreau* case:

“As a general principle, it is a question of determining, while taking account of the individual circumstances of each case, the lump sum which would equitably compensate the moral or material injury suffered. It would be disregarding this principle to try to determine the indemnity to be allowed by calculating simply the number of days [of detention] that are taken into consideration and by applying thereto a rate which may have been considered as equitable under the conditions which prevailed in America....” (Award, as reprinted in Whiteman, *Damages in International Law* (1937), Vol. I, p. 458.)

The relevant factors

67. The Government of Liechtenstein considers that it may best assist the Court in this respect by setting out, by reference to the case of Mr. Nottebohm, certain factors which have been recognized by international tribunals as relevant to the determination of damages. Thus it is submitted that the following are among the factors which the Court may properly take into consideration in determining the amount of general damages suffered by him: The initial unlawfulness and complete absence of justification for the arrest and detention and expulsion of Mr. Nottebohm; the continued refusal by Guatemala to permit Mr. Nottebohm to return to that country; the loss to the hitherto unblemished reputation which Mr. Nottebohm enjoyed in Guatemala and, in particular, his position as a prominent member of the business community and a substantial property owner; the mental suffering undergone by Mr. Nottebohm since the time of his arrest; the general inconvenience he has suffered in being uprooted from a country in which he had lived for thirty-eight years; his enforced absence from Guatemala at a time when, if he had been present, he might have been in a position to dissuade the authorities from applying to his property acts which, though on a strict interpretation of their terms were perhaps properly so applicable, should never have been enacted or so applied; and the fact that whatever may be the legal responsibility of the Government of Guatemala for the internment of Mr. Nottebohm in the United States, they must have known at the time Mr. Nottebohm was put on board an American vessel that internment would most probably follow his arrival there.

The standards of compensation

68. While the Government of Liechtenstein do not consider that the standards applied in the cases referred to should be applied automatically to the present case, they offer some guidance both directly and indirectly, as emphasizing the difference between the position of Mr. Nottebohm and those of the persons concerned in those cases, for the assessment of damages to Mr. Nottebohm.

In the *Topaze* case, decided by the British-Venezuelan Claims Commission of 1903 (Ralston, *Venezuelan Arbitrations* (1903), p. 329), in which damages were claimed by the British Government for the detention for twenty-six and a half hours of a number of British naval officers and ratings, Umpire Plumley, after examining the awards in 18 cases relating to illegal arrest and detention and taking the average award per day, decided that \$100 a day was a fair sum to allow in such cases. In the *Faulkner* case, *Opinion of the Commissioners* (1927), page 86, \$1,050 was awarded for seven days detention of a visiting interpreter, the Commission increasing the rate so as to take account of the depreciation of money. The grounds of the award of M. Beichmann in the *Chevreau* claim (see above, para. 35), are probably the most helpful in this type of case. In that case a sum of £2,000 (\$10,000) was considered to represent an equitable indemnity for the arrest (held to have been justifiable), detention, failure to try and the eventual expulsion of M. Chevreau. It may be noted that M. Chevreau was a teacher, "earning his living with difficulty by giving foreign language lessons", that he had lived in Persia for only four years and that he was not a man of property. His expulsion was not, therefore, accompanied by any substantial material loss.

69. In all the circumstances of this case and having regard to the factors mentioned in paragraph 67 above, it is the submission of the Government of Liechtenstein that a sum of 645,000 Swiss francs would constitute an equitable indemnity for Mr. Nottebohm.

B

Damages and other legal remedies with respect to unlawful acquisition of the property of neutral nationals

70. The Government of Liechtenstein do not consider it necessary at this stage to contest the proposition that, if the seizure by the Government of Guatemala of the property of Mr. Nottebohm had been justifiable on the ground of immediate military necessity, no compensation at all would be payable to him. Neither do the Government of Liechtenstein contend that if the seizure of his property had been justifiable as a lawful requisition, Mr. Nottebohm would have been entitled to more than reasonable and fair compensation for the deprivation of his property. In the view of the Government of Liechtenstein neither of these alternatives arises in this case. The seizure of the property of Mr. Nottebohm was neither lawful nor justifiable. The Government of Liechtenstein submit that in such a case the correct standard of reparation for the illegal acts of the Government of Guatemala is not simply the payment of reasonable compensation but the duty of *restitutio in integrum*.

The principle that *restitutio in integrum* is the proper measure of the duty of a State wrongfully seizing alien property, as distinguished from the duty of a State which lawfully and without discrimination expropriates alien among other property, has been clearly established by the decision of the Permanent Court of International Justice in the *Chorzów Factory (Claim for Indemnity) (Merits)* case (Series A, No. 17). The relevant passage in the judgment of the Court is of such importance as to justify a full quotation of it. The Court said :

“The action of Poland which the Court has judged to be contrary to the Geneva Convention is not an expropriation—to render which lawfully only the payment of fair compensation would have been wanting ; it is a seizure of property, rights and interests which could not be expropriated even against compensation, save under the exceptional conditions fixed by Article 7 of the said Convention. As the Court has expressly declared in Judgment No. 8, reparation is in this case the consequence not of the application of Articles 6 to 22 of the Geneva Convention, but of acts contrary to those articles.

It follows that the compensation due to the German Government is not necessarily limited to the value of the undertaking at the moment of dispossession, plus interest to the day of payment. This limitation would only be admissible if the Polish Government had had the right to expropriate, and if its wrongful act consisted merely in not having paid to the two Companies the just price of what was expropriated ; in the present case, such a limitation might result in placing Germany and the interests protected by the Geneva Convention, on behalf of which interests the German Government is acting, in a situation more unfavourable than that in which Germany and these interests would have been if Poland had respected the said Convention. Such a consequence would not only be unjust, but also and above all incompatible with the aim of Article 6 and following articles of the Convention—that is to say, the prohibition, in principle, of the liquidation of the property, rights and interests of German nationals and of companies controlled by German nationals in Upper Silesia—since it would be tantamount to rendering lawful liquidation and unlawful dispossession indistinguishable in so far as their financial results are concerned.

The essential principle contained in the actual notion of an illegal act—a principle which seems to be established by international practice and in particular by the decisions of arbitral tribunals—is that reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed. Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear ; the award, if need be, of damages for loss sustained which would not be covered by restitution in kind or payment in place of it—such are the principles which should serve to determine the amount of compensation due for an act contrary to international law.

This conclusion particularly applies as regards the Geneva Convention, the object of which is to provide for the maintenance of economic life in Upper Silesia on the basis of respect for the *status quo*. The dispossession of an industrial undertaking—the expropriation of which is prohibited by the Geneva Convention—then involves the obligation to restore the undertaking and, if this be not possible, to pay its value at the time of the indemnification, which value is designed to take the place of restitution which has become impossible. To this obligation, in virtue of the general principles of international law, must be added that of compensating loss sustained as the result of the seizure. The impossibility, on which the Parties are agreed, of restoring the Chorzów factory could therefore have no other effect but that of substituting payment for the value of the undertaking for restitution; it would not be in conformity either with the principles of law or with the wish of the Parties to infer from that agreement that the question of compensation must henceforth be dealt with as though an expropriation properly so called was involved.” (Series A, No. 17, pp. 46-48.)

71. The Government of Liechtenstein are of the view that the above passage so clearly states the true legal position in respect of the damages recoverable that no further reference to judicial authority is necessary. The application of the principles contained in that passage from the judgment of the Court is clear: The first obligation of the Government of Guatemala is to restore to Mr. Nottebohm the property which was originally his in the same condition as it was at the time of its seizure. In the event (as is probably the case) that the value of the property has since fallen as a result of deterioration through neglect or use, the Government of Guatemala must also pay damages to Mr. Nottebohm equal to the difference between the original and the present value of the property. In addition, they are bound to account to him for the profits derived from the use of the various parts of the property since the dates on which those parts were seized. Moreover, if (as is likely) the earnings of the property while out of the control of its lawful owner have been less than they would have been had the property remained under the control of Mr. Nottebohm, the Government of Guatemala is under an additional duty to pay damages representing the extra amount which that property might have earned since the date of its unlawful seizure. So far as the Government of Liechtenstein can at present estimate, the profit which the property should have earned is probably not less than an average of Swiss francs 300,000 per annum. The Government of Liechtenstein reserve their right to adduce at a later stage in the proceedings such evidence as may be necessary to substantiate this claim. If the actual restoration of the property is not possible, then the Government of Guatemala is under a duty to pay to Mr. Nottebohm a sum which will represent the true value as at the date of the judgment of the Court of the

property which they cannot restore. The true value of the property is determined by the present market value of that property had it been maintained in its original condition—a sum which takes into consideration not only the replacement cost of the property seized but also the loss of profits consequent upon the seizure. Thus in the *Norwegian Shipowners* case (Scott, *Hague Court Reports*, 2nd Series, p. 40, at p. 73) the Permanent Court of Arbitration said: "Just compensation implies a complete restitution of the *status quo ante*, based, not upon the future gains of the United States or other Powers, but upon the loss of profits of the Norwegian shipowners as compared with other owners of similar property." It follows that the Government of Guatemala can make adequate reparation only by :

- (a) the payment of a sum equal to the total income of the property from the date of its seizure to the date of the judgment in this case plus the payment of damages representing the additional income which in the opinion of the Court would have been earned by the property if it had remained under the control of its lawful owner ; *and either*
- (b) the restitution in its original sound condition of the property seized or restitution in its present condition of the property seized plus the payment of damages in respect of depreciation ;
or
- (c) the payment of a sum which will be the equivalent of the value of the property the Government of Guatemala has failed to restore. The value of the property must be calculated as at the date of judgment and must include not only damages for depreciation but also the loss of the profits which would have been earned by that property had it been maintained in sound condition.

A detailed list of this property is printed as Annex 4.

Final conclusions of the Government of the Principality of Liechtenstein

The Government of Liechtenstein submit that the Court should adjudge and declare that :

1. The Government of Guatemala in arresting, detaining, expelling and refusing to readmit Mr. Nottebohm and in seizing and retaining his property without compensation acted in breach of their obligations under international law and consequently in a manner requiring the payment of reparation.
2. In respect of the wrongful arrest, detention, expulsion and refusal to readmit Mr. Nottebohm the Government of Guatemala

should pay to the Government of Liechtenstein :

- (i) special damages amounting, according to the data received so far, to not less than 20,000 Swiss francs ;
 - (ii) general damages to the amount of 645,000 Swiss francs.
3. In respect of the seizure and retention of the property of Mr. Nottebohm, the Government of Guatemala should submit an account of the profits accruing in respect of the various parts of the property since the dates on which they were seized and should pay the equivalent in Swiss francs (with interest at 6 % from the date of accrual) of such sum as may be found in that account to be owing by them. Further, the Government of Guatemala should pay damages (at present estimated at 300,000 Swiss francs per annum) representing the additional income which in the opinion of the Court would have been earned by the property if it had remained under the control of its lawful owner.
 4. Further, the Government of Guatemala should restore to Mr. Nottebohm all his property which they have seized and retained together with damages for the deterioration of that property. Alternatively, they should pay to the Government of Liechtenstein the sum of 6,510,596 Swiss francs representing the estimated present market value of the seized property had it been maintained in its original condition.

(Signed) ERWIN H. LOEWENFELD.

14th May 1952.

LIST OF ANNEXES

1. Liechtenstein law of nationality of the 10th January 1934.
 2. Certificate relating to the acquisition of Liechtenstein nationality by Mr. Nottebohm.
 3. Letter dated the 21st December 1950 from the Department of Justice of the Government of the United States of America relating to the release of the assets of Nottebohm Hermanos.
 4. List of expropriated assets of Mr. Nottebohm and, so far as is known, the date on which they were seized, the number of the decree under which they were seized, the date of their final expropriation and their present value.
 5. Copy of the documents filed in proceeding number 46.
 6. Copy issued the 24th November 1951 of files of the Government of Guatemala relating to Mr. Friedrich Nottebohm.
 7. Copy issued the 21st February 1946 of files of Government of Guatemala relating to Mr. Friedrich Nottebohm.
 8. Governmental decree number 2601 of the 9th October 1941.
 9. Governmental decree number 2655 of the 23rd December 1941.
 10. Governmental decree number 3134 of the 14th August 1944.
 11. Governmental decree number 3135 of the 14th August 1944.
 12. Governmental decree number 3138 of the 23rd August 1944.
 13. Legislative decree number 114 of the 22nd May 1945.
 14. Legislative decree number 630 of the 25th May 1949.
 15. Legislative decree number 689 of the 31st October 1949.
 16. Legislative decree number 763 of the 2nd October 1950.
 17. Legislative decree number 811 of the 23rd May 1951.
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ANNEXES

Annex 1

ARTICLE 6 OF THE LIECHTENSTEIN LAW OF NATIONALITY OF THE 10th JANUARY 1934

Liechtenstein Official Gazette. Year 1934, No. 1. Issued on 10th January 1934.

§ 6

(c) by naturalization

- Nationality may be conferred only upon such foreigners who
- (a) by the laws of their former home State (*Heimatstaat*) have the legal capacity to act ; the lack of such capacity can be remedied by the consent of the father or legal representative ;
 - (b) prove that the acceptance into the Home Corporation (*Heimatverband*) of a Liechtenstein commune has been promised to them in case of acquisition of the nationality of the State ;
 - (c) prove that in case of acquisition of the nationality they lose their former nationality. However, if according to the law of their home State they retain their former nationality in case of acquisition of a foreign nationality, this requirement can be waived ; the Princely Government can dispense with the proof of the release from their former nationality. In these cases the protection of the Liechtenstein authorities can not be claimed as regards the relations to the first home State.
 - (d) have ordinarily resided in the territory of the Principality of Liechtenstein at least three years ; this requirement can be dispensed with in circumstances deserving special consideration and by way of exception.

Annex 2

CERTIFICATE RELATING TO THE ACQUISITION OF LIECHTENSTEIN NATIONALITY BY Mr. NOTTEBOHM¹

Government of the Principality of Liechtenstein.

No. 193/474.

Citizenship Document

for Herr Friedrich Nottebohm, born on 16th September 1881 in Hamburg who by supreme resolution of His Serene Highness the Ruling Prince of 13th October 1939 was accepted as a citizen of the

¹ Translated from a certified copy in German which has been deposited with the Registrar.

Liechtenstein State and has obtained civic rights in the community of Mauren.

Vaduz, 20th October 1939.

Government of the Principality
of Liechtenstein :
(Signed) Dr. VOGT.

[Stamp]

Certified copy.

Vaduz, 14th March, 1952.
Princely Government's
Chancellery.

Annex 3

LETTER DATED THE 21st DECEMBER 1950 FROM THE
DEPARTMENT OF JUSTICE OF THE GOVERNMENT OF THE
UNITED STATES OF AMERICA RELATING TO THE RELEASE
OF THE ASSETS OF NOTTEBOHM HERMANOS

DEPARTMENT OF JUSTICE
OFFICE OF ALIEN PROPERTY
WASHINGTON 25 D. C.

December 21, 1950.

Mr. Karl-Heinz Nottebohm
c/o Thomas G. Corcoran, Esquire
1511 K Street, H. W.
Washington, D. C.

Re : *Nottebohm Hermanos*

Dear Mr. Nottebohm :

In connection with your application for the unblocking of assets in the United States in the name of Nottebohm Hermanos and its partners, Friedrich Nottebohm, Karl-Heinz Nottebohm, Carmen Nottebohm, and Erika Nottebohm von der Goltz :

After due inquiry in the United States, Germany, Switzerland, Liechtenstein and Guatemala, and of your records, it has been determined to unblock as non-enemy all property in the United States covered by such application in the name of Nottebohm Hermanos and its individual partners. We are issuing a license today.

Sincerely yours,

(Signed) HAROLD I. BAYNTON,
Assistant Attorney-General,
Director, Office of Alien Property.

Annex 4

LIST OF THE EXPROPRIATED ASSETS OF Mr. NOTTEBOHM AND SO FAR AS IS KNOWN THE DATE ON WHICH THEY WERE SEIZED, THE NUMBER OF THE DECREE UNDER WHICH THEY WERE SEIZED, THE DATE OF THEIR FINAL EXPROPRIATION AND THEIR PRESENT VALUE

A. Assets which were the property of the partnership Nottebohm Hermanos of which Mr. Friedrich Nottebohm was a part owner. The value in column I represents the value to the partnership of the expropriated assets on the 17th December, 1951. The value in column II represents the value of the share of Mr. Friedrich Nottebohm

Description of asset	Date of seizure	Number of decree	Date of expropriation	Value in quetzales	
				I	II
Plantation Sta. Cecilia	18 Sept. 1942	3135	19 August 1944	450,000	25,000 ^o
" El Peru	6 August 1942	3135	14 August 1944	400,000	40,000 ^o
" Mediodia Felipinas	25 July 1942	3135	14 August 1944	250,000	14,000 ^o
" Bola de Oro	21 July 1942		14 August 1944	150,000	14,000 ^o
" Los Castanos	7 July 1942		14 August 1944	85,000	5,000 ^o
" La Florida	22 August 1942		14 August 1944	100,000	22,000 ^o
" Las Sabanotas	12 June 1942		14 August 1944	140,000	21,000 ^o
" Los Brillantes	12 June 1942		14 August 1944	30,000	2,000 ^o
" Monte Cristo	25 July 1942		14 August 1944	110,000	12,000 ^o
Farm Coafunco	20 June 1942		14 August 1944	30,000	1,500 ^o
Land in Huehuetenango for workmen's dwellings				40,000	2,000 ^o
Buildings Casa Grande in Quezaltenango				63,000	3,500 ^o
Bodega Boston			9 June 1945	11,000	4,000 ^o
Businesshouse Nottebohm Hermanos in Guatemala City			13 March 1945	150,000	66,000 ^o
No. 38 Ave. del Hipodromo in Guatemala City			9 June 1945	40,000	15,000 ^o
Land Building site Los Arcos in Guatemala City				30,000	11,000 ^o
Shares 13 Comp. Com. & Agricola					8,000 ^o
2904 Banco Central					14,000 ^o
Agencia Maritima Nat. Ltd.					5,000 ^o
Muelle de Champerico					500 ^o
* General Electric Station (A.E.G.)				16,377	4,526 ^o
					290,026 ^o
Credits due to the firm Nottebohm Hermanos				265,576.64	99,580 ^o
Balance of deposit account at Banco Central				412,632.94	111,486 ^o
					<u>501,092^o</u>
				Total value of Mr. Nottebohm's interest under A. 501,092	

* According to information received after the institution of proceedings, this item is to be included in the list of the expropriated assets of Mr. Nottebohm.

B. Property jointly owned in equal shares by Mr. Friedrich Nottebohm and Mr. Carlos Nottebohm

Description of asset	Date of seizure	Number of decree	Date of expropriation	Value in quetzales	
				I	II
Plantation San Rafael Pana	17 July 1942	3135	14 August 1944	200,000	100,000
.. El Potosi y Anexas	11 Sept. 1942	3135	14 August 1944	200,000	100,000
.. Guatalon				14,000	7,000
.. Morazan	11 August 1942		14 August 1944	4,000	2,000
.. El Carmen Metzabel	20 July 1942		14 August 1944	20,000	10,000
Building Residence at 6a Calle Tivoli & 7a Ave. Sur			14 August 1944	80,000	40,000
Total value of Mr. Nottebohm's interest under B					<u>259,000</u>

C. Property solely owned by Mr. Friedrich Nottebohm

746 Shares in Vina Zapote	373,000
285 Shares in Concepción	285,000
479 Shares in Comp. F. C. Verapaz	<u>96,000</u>
Total value under C	754,000

	Quetzales
Total value under A	501,092
" " " B	259,000
" " " C	754,000
Total	1,514,092 quetzales

1,514,092 quetzales at 4.30 Swiss francs to 1 quetzal equals Swiss francs 6,510,586

NOTE EXPLANATORY OF ANNEXES 5, 6 AND 7

The documents which follow as Annexes 5, 6 and 7 are translations taken from official copies of government files in Spanish which were supplied by the Government of Guatemala at the request of the legal representatives of Mr. Nottebohm in Guatemala. The original official copies in Spanish have been deposited with the Registrar of the Court. The form of the original documents differs in some respects from the form of the translations as they appear in the Annexes. The original documents were typed without a break upon a series of numbered and stamped sheets. On occasions the Government of Liechtenstein have had some difficulty in determining where one entry begins and another ends. Consequently, in order to simplify reference to the translations and without in any way affecting their substance, the Government of Liechtenstein have divided them into paragraphs which are distinctively numbered in the margin so that it is clear that the numbers do not form any part of the body of the translations.

Annex 5

COPY OF THE DOCUMENTS FILED IN PROCEEDING
NUMBER 46¹

THE UNDERSIGNED, SECRETARY OF THE MINISTERIO PUBLICO,

CERTIFIES :

- 1 That for these purposes he has seen the petition presented by Don Frederico Nottebohm the which with its termination and insertion of representation, states as follows "Señor Procurador General of the Nation: Frederico Nottebohm with reference to the matter already brought to your notice in the office of your worthy ministry in the proceedings of opposition to the expropriation to which my property, is subject, which proceedings are numbered 46, humbly appear to petition: That at my own expense and with the formalities of the law, I may be granted certification of all the proceedings. I request you to grant my petition. Guatemala 28th May 1949. At the request of the presentor (*signed*) Ricardo Zuniga. There is the seal/stamp which says Ricardo Zuniga Sanchez Advocate and Notary.

¹ This Annex consists of an exact translation of one of the documents which were obtained by the legal representatives of Mr. Nottebohm in Guatemala. It is a copy of all the papers which have been filed in proceeding number 46—the proceeding instituted in Guatemala by Mr. Nottebohm's representatives in an unsuccessful effort to secure the return of his property.

Secretariat of the Ministerio Publico Guatemala, C. A. received 2
30th May 1949 at 09.25 hours from the hands of R. Zuniga Licenciado.
Control No. 3959. Ministerio Publico : Guatemala the thirteenth day
of May one thousand nine hundred and forty-nine. May the Secretariat
look over the aforesaid antecedents and as the presenter requests, at
his expense, grant to him the certification of the proceedings referred
to in his foregoing petition (*signed*) Licona M. Procurador General of
the Nation and chief of the Ministerio Publico ; Fidel Saavedra T.
Secretary. Here are the respective seals.

INSERTION. Proceedings No. 46. Person in question CARMEN NOTTE- 3
BOHM STOLTZ (Frederico Nottebohm Weber). Subject : Exemption of
his property. Señor Procurador Publico of the Nation : Case : FREDERICO
NOTTEBOHM WEBER.—Carmen Nottebohm Stoltz of full age, spinster,
mistress of her house, of Guatemalan nationality, living in the city,
humbly show : I am the niece of Frederico Nottebohm Weber brother
of my father Don Arturo Nottebohm. My uncle Don Frederico is
involuntarily absent from the country and did not have the opportunity
of leaving an attorney to represent him in his personal capacity in his
affairs. For this reason, as next relative I assume his representation as
Gestor in defence of his rights and personal interests. Don Frederico
Nottebohm Weber was born in Hamburg Germany about 75 years ago ;
and was of German nationality until 1939 when he was naturalized in
the Principality of Liechtenstein, a sovereign State in Europe. Don
Frederico has lived in Guatemala working at his business for above
35 years, and during the passage of all this time has gained an excellent
reputation for honesty and diligence. There are no antecedents contradict-
ing this reputation in any public office. He registered as a domiciled
alien at the Ministry of Foreign Relations under Certificate No. 1968
on the 16th April 1928 and on the 20th October 1939, this registration
was amended to recognize his new nationality as a citizen of Liechtenstein
as is shown in the authenticated document accompanying. As a member
of the firm "Nottebohm Bros." of this place his name was included in
the black list proclaimed by the Government of the United States of
America, but as he no longer had the nationality of any of the countries
at war with Guatemala he has the right to invoke the provisions of
legislative decree No. 114 of which Article 10 allows him to be exempt
from the legal and economic effects to which he might be subject by
reason of the said black list. Basing my case on this law, and in the
name of Don Frederico Nottebohm Weber I come to take the necessary
steps so that, by reason of his nationality at birth a declaration be
made that he should be exempt from any proceedings relating to the
expropriation of his property. In this respect I declare ; that the Señor
Nottebohm Weber has not belonged to any official political group of
any country at war with Guatemala ; that he has not co-operated directly
or indirectly with that Party nor contributed to its sustenance or propa-
ganda, that he has never attended voting plebiscites on board the S.S.
Cordillera nor on any other vessel of enemy flag ; that personally he has
not co-operated directly or indirectly with the enemies of the republic
nor done business with persons natural or legal [*personas o entidades*]
included in the black lists ; that there has never been any cause to
account him under suspicion for anti-democratic activities. To prove
these statements I ask that the relevant information be requested from

the Secretariat of Foreign Relations and from Police Headquarters and that the evidence of the witnesses, Don Carlos Walter Elmenhorst of British nationality, and of Dr. Don Leopoldo Asckel of Guatemalan nationality, be taken. May the Señor Procurador General give to this petition the effect of legal proceedings and at the opportune moment make the declaration which I humbly request.

Guatemala 11th June 1945 (*signed*) Carmen Nottebohm, Secretariat of Ministerio Publico Guatemala, C. A. received 11th June 1945 at 16.00 hrs by José Morales. 3734.

MINISTERIO PUBLICO: Guatemala twenty second day of June one thousand nine hundred and forty-five. The presenter is legally justified in her representation as attorney or defender of the absent man. (*signed*) Marcial Mendez M. F. Saavedra T.; here is the respective seal.

- 4 SECRETARIAT OF FOREIGN RELATIONS REPUBLIC OF GUATEMALA BOOK 0020 FOLIO 1068: CERTIFICATE OF REGISTRATION DEPARTMENT OF GUATEMALA. Registration Duty two quetzales. Certificate No. 1968. Today was registered Señor FREDERICO NOTTEBOHM, as a German citizen, after proving his nationality with the justifying documents mentioned below. PARENTAGE name Federico Nottebohm name of father or mother Guillermo Nottebohm. Elisa Weber. Nationality of parents German. Place of birth of person registered and country of birth Hamburg, Germany. Place of residence in Guatemala The Capital. Name of wife.... Place of birth of wife.... Number of children under 21 yrs of age if born in Guatemala.... Married or single. Single. Profession or job. Business man. Age forty-six years. Height 1 metre 86 centimetres. Complexion fair. Eyes blue. Hair fair. Distinguishing marks none. Documents justifying his nationality German passport from German Legation in Guatemala. Notes. The bearer proved that he was granted nationality of Liechtenstein with the Passport No. 702 executed by the Governor in Vaduz the 20th October 1939. Noted. Guatemala 16 April 1928. (Place and date of registration.) (*Signed*) Federico Nottebohm (Signature of person in question) Illegible (Signature of under secretary of Foreign Relations). And to be franked to the person in question in conformity with decree No. 969 these presents are granted in Guatemala 17th April 1928. (Thumb print right index, or other finger in its place.) Here is the photograph of the person in question. (*Signed*) Illegible (Minister of Foreign Relations). ARTICLES OF THE LAW OF ALIENS. *Art. 39.* The registration constitutes only a presumption of law that the alien has the nationality attributed to him, and admits proof to the contrary. *Art. 40.* The registration is proved by certificate thereof which is granted and signed by the Minister of Foreign Relations who alone has the power to do this. *Art. 41.* No public authority can recognize as a person of a given foreign nationality anyone who fails to produce his certificate. *Art. 47.* The Guatemalan laws are binding upon all persons in Guatemalan territory without distinction of nationality. The status and capacity of the persons and their relations are governed by the law of the nation to which they belong.
- 5 CIVIL REGISTRY GUATEMALA THIRTEENTH DAY OF JANUARY ONE THOUSAND NINE HUNDRED AND THIRTY-SIX. The undersigned certifies that Don Federico Nottebohm of German nationality was registered in this office in Certificate number 15 Folio 195 Book 40 of Domiciled

aliens. Articles 329 and 331 of the C.C. (*Signed*) Illegible. HERE ARE THE RESPECTIVE SEALS.

SECRETARIAT OF FOREIGN RELATIONS: Guatemala the seventh day 6 of February one thousand nine hundred and forty. It is recorded that: the bearer has changed his nationality, having opted for that of Liechtenstein as he has proved with the passport numbered 702 which was executed by the Governor of Vaduz dated the 20th October 1939. And at the request of Señor Federico Nottebohm this modification is made. Amended 1939. Valid. (*Signed*) Illegible. Here is the seal SECRETARY OF FOREIGN RELATIONS REP. OF GUATEMALA, C.A.

Señor Procurador General of the nation. *Subject* FEDERICO NOTTE- 7 BOHM WEBER.

In the Office of your Ministry there is in the stage of a petition the proceedings taken out so that a declaration may be made that owing to my position as a citizen of the Principality of Liechtenstein under Swiss protection my property should not be affected by the provisions for their expropriation and seizure made in the emergency legislation. The recent legislative provisions provide that the fruits of property expropriated or to be expropriated in favour of the State are likewise expropriated. As a partner in "Nottebohm Bros." I have a share in the goods of this Company whose expropriation is already ordered, and they are the following: *Rustic estates*: "Las Sabanetas", "La Florida", "Bola de Oro", "El Peru", "Monte-Christo" and "Les Brillantes". *Urban estates*: a building on the corner of 10th Street and 5th Avenue; the house No. 38 Avenida del Hipodromo and the *Bodega* [wineshop, grocery or warehouse] "Boston". *Stocks*: Shares in the Banco Central, in the Agencia Maritima Nacional, in the Muelle de Champerico and the Guatemalan Empresa Electrica, S.A. *Mortgages*: Credites hipotecarios [Loans secured by Hypothec]: loans secured to the following persons Moises Rivera Soto, Roberto Pivaral Padilla, Juana Altenbach de Larrave, Hector Augusto Pivaral, Hermanos Aparico Barrios, Jose Herrarte Sagastume, Blanca Matilde Ruiz de Mencos, Herman Möller, Carlos and Juan Irigoyen, Felipe Yurrita Castaneda and Francisca Maury de Leon de Yurrita, Vicente G. Borja, Bernarda Molina Padilla de Hernandez, Silvia widow of Lemus Enrique Guntario Krische and co-owner, Jose Antonio Lopez Caceros and co-owners, Enrique Dietrich Meendsen, Elvira L. de Aparicio, and Club Le Guatemala. Besides my share in the above property as a partner in Nottebohm Bros. I have in my personal capacity a share in the Empresa Electrica and I also share in the estates "El Potosi", "San Rafael Panan", "Morazan" and "Guatalon" as co-owner. In conformity with the laws invoked, and the facts which I have recited in the proceedings TO WHICH I referred at the beginning, I consider that both in respect of the properties above mentioned, and likewise of the fruits or produce which they have born, I have the right to ask my shares in them be freed from all expropriation or seizure; and in virtue of this I ask the Señor Procurador General of the Nation respectfully that he should act thus when the time comes for the final settlement of this matter. Should my petition not be granted, I desire with effect from now to give respectful notice of my protest, and I ask that (I may have a certified copy of the) present memorandum and of its decision.

Guatemala 3rd July 1946 (*signed*) p.p. Federico Nottebohm : Christian name illegible, surname Nottebohm, Secretariat of the MINISTERIO PUBLICO : GUATEMALA, C.A. received 3rd July 1946 at 16.30 hrs. Personal 4768.

- 8 SECRETARIAT OF THE MINISTERIO PUBLICO : GUATEMALA the fifth day of July one thousand nine hundred and forty-six. To be added to the antecedent, of this present memorandum, to be dealt with as soon as possible, and at the expense of the petitioner he is to be granted the certification he requests and let the sealed paper be replaced with the legal seal. (*Signed*) Marcial Mendez M.—F. Saavedra T. Here is the respective seal. On the fifteenth day of July one thousand nine hundred and forty-six, I notified the person in question of the foregoing provisions and he signed as notified. Witnessed (*Signed*) Marco Tulio Martinez.—P.p. Federico Nottebohm. Illegible.

- 9 Señor Procurador General of the nation. SUBJECT : FEDERICO NOTTEBOHM WEBER.

In the office of your Ministry there are legal proceedings relating to a declaration that, as a citizen of Liechtenstein, under Swiss protection I am not subject, personally or in relation to my property, to the provisions of the emergency legislation. I ask that the petition and the proofs contained in those proceedings be taken as my legal opposition, as required by the regulation which is made for the execution of the emergency legislation by the Administrative Order of 2nd July present.

Guatemala 6th July 1946, p.p. Federico Nottebohm.—Illegible. Signature.—Secretariat of the Ministerio Publico, Guatemala, C. A. Received 8th July 1946 at 10.00 hrs. By the presenter. 4868.

- 10 SECRETARIAT OF THE MINISTERIO PUBLICO :

Guatemala ninth day of July one thousand nine hundred and forty-six. —To its antecedents :—(*signed*) Marcial Mendez M., F. Saavedra T. ; here is the respective seal.

MINISTERIO PUBLICO : GUATEMALA ELEVENTH DAY OF JULY ONE THOUSAND NINE HUNDRED AND FORTY-SIX. Let Don Federico Nottebohm Weber be notified of the time-limit of ten days for him to prove the allegations set forth in his petition of exemption (*signed*) Marcial Mendez M., F. Saavedra T. Here is the respective seal. MEMORANDUM. Notice served 11th July 1946 (*signed*) Illegible. On the fifteenth day of July one thousand nine hundred and forty-six I notified Señor Federico Nottebohm Weber of the foregoing provisions and he signed as notified-witnessed (*signed*) Marco Tulio Martinez (*signed*) p.p. Federico Nottebohm. Illegible.

- 11 Señor Procurador General of the Nation. Proceedings of Don FEDERICO NOTTEBOHM. Proceedings No. 46.

KARL HEINZ NOTTEBOHM STOLTZ in my capacity as attorney of my uncle Don Federico Nottebohm I respectfully make reference to the legal proceedings taken out so that my principal should not be included in the provisions aforesaid for the expropriation of property and I declare ; That in order to clarify more fully what have been the activities of my mandator I respectfully request you to inquire of the Chief of Police so that you will receive information and data from his office on the following matters. (i) As to whether the life, habits and social, commercial and political relation of Don Federico Nottebohm show

that at any time he should have shown any inclination in favour of countries at war with Guatemala. (2) So that you may be informed whether during the War period, or immediately before Don Federico Nottebohm took any part direct or indirect in favour of the enemies of Guatemala. (3) As to whether Don Federico Nottebohm enjoyed a good reputation in the various parts of the country and as to whether he was considered an honest man. Be so good as to take the results of these inquiries as proof in support of my petition.

Guatemala 15th July 1946 (*signed*) Karl Heinz Nottebohm Stoltz. Secretariat of the Ministerio Publico Guatemala, C.A. received 15th July 1946 at 16.45 hrs by the presenter 5164.

MINISTERIO PUBLICO: Guatemala the sixteenth day of July one thousand nine hundred and forty-six. Let the information requested be sought and taken as proof of the presenter. MEMORANDUM. The information was sought. 18th July.

Señor Procurador General of the Nation. Subject FEDERICO NOTTEBOHM 12 WEBER. Proceedings No. 46.

I, KARL HEINZ NOTTEBOHM STOLTZ, respectfully appear as attorney of Don Federico Nottebohm and declare that to comply with the provisions made by this Office which orders that a proposed interrogatory be submitted to take the evidence of the witnesses Messrs. Carlos Walter Elmenhorst and Dr. Leopoldo Aschkel, by means of this present memorandum I submit the following (1) Let them tell you whether they have known Don Federico Nottebohm for some years having had commercial and social relations with him. (2) Let them say whether from their personal knowledge of the said Señor Nottebohm and from their dealings with him they know and are certain that he never belonged to the German Nazi Party nor to any other group of a political nature of countries at war with Guatemala. (3) Let them tell you whether it is certain and they know that Don Federico Nottebohm never attended meetings of the German Nazi Party and that he ever co-operated directly or indirectly towards the aims of that political party. (4) Let them say whether it is certain and they know that Don Federico Nottebohm never attended the voting which took place on board the S.S. *Cordillera* and that he did not vote on any other ship either. (5) Let them tell you whether they know and are certain that from all the relations they have had with Don Federico Nottebohm that the said man has had no commercial activity of any kind or in any capacity with black listed persons or corporations. (6) Let them say whether it is true, and they know it, that Señor Nottebohm has not co-operated in any way with enemies of Guatemala. (7) Let them tell whether from the above relations they have maintained with Don Federico Nottebohm they are certain that he has always shown himself loyal and sympathetic to Guatemala. May it please the Procurador General of the Nation to arrange to examine the witnesses proposed according to the foregoing interrogatory and take the result as proof in favour of the petition of Señor Nottebohm. Guatemala, 15th July 1946 (*signed*) KARL HEINZ NOTTEBOHM STOLTZ.

Secretariat of the Ministerio Publico Guatemala, C. A. received 15th July 1946 at 16.15 hrs by the presenter 5165.

MINISTERIO PUBLICO Guatemala seventeenth day of July one thousand nine hundred and forty-six. Type for future reference let the proposed information be taken and held as proof on behalf of the presenter. Let

this paper be replaced (*signed*) Marcial Mendez M., F. Saavedra T.; here is the respective seal.

- 13 In the city of Guatemala the eighteenth day of the month of July there appeared in the Office of the Ministerio Publico Señor Leopoldo Anhkel [sic] who legally called to witness to express himself truthfully in this process, offered to do so thus and declared he was of the age of seventy-two years, Surgeon and Medical Practitioner, of Guatemalan nationality of Russian descent dwelling in this city residing at 3, Callejon de la Luna, and 11, Calle Poniente. In answer to the interrogatory submitted by Don Federico Nottebohm dated fifteenth of July of this current year *said*. (1) "Let them tell you if they have known Don Federico Nottebohm for several years, having had commercial and social relations with him?" He answers that he knew him since 1924 and that he had kept up social and commercial relations with him. (2) "Let them say whether from their personal knowledge of the said Señor Nottebohm and from the dealings they have had with him they know and are certain that he never belonged to the German Nazi Party nor to any other group of a political nature of any country at war with Guatemala." He answers that it is true that he never belonged to any political group of any country at war with Guatemala. (4) [sic] "Let them tell you whether it is true to their knowledge that Don Federico Nottebohm never attended the voting on board the S.S. *Cordillera* and that he did not go to vote for any purpose on board any other ship either." He answers that yes he knows and is sure that he did not go and vote on board any ship because he did not belong to the Nazi Party. (3) [sic] "Let them tell you if it is true to their knowledge that Don Federico Nottebohm never attended meetings of the German Nazi Party and that he never co-operated directly or indirectly towards the aims of the said political Party." He answers Yes it is absolutely true. (5) "Let them tell you if they know to their certain knowledge from all the relations they have had with Don Federico Nottebohm that the said man has had no commercial activities of any kind or in any capacity with black-listed persons or corporations." He answers that Yes he knows and that he has done neither. (6) "Let them say whether it is true to their knowledge that Señor Nottebohm has not co-operated in any way with enemies of Guatemala." He answers that Yes it is absolutely true. (7) "Let them say whether the close relations which they have had with Don Federico Nottebohm show them that he has always shown himself loyal and sympathetic to Guatemala." He answers that Señor Nottebohm has never shown any other sentiment than that in the question for he knew of the loyalty and sympathy towards Guatemala of the witness, that the witness never had close relations with Señor Nottebohm for more than twenty years, that he has no interest in making this declaration and that in addition he is not a close relative or intimate friend of the person in question. He ratified this writing which was read to him, and he signed it. Witnessed (*Signed*) Marcial Mendez M., Leopoldo Aschkel. Before me F. Saavedra T. here is the respective seal.
- 14 In the city of Guatemala the eighteenth day of the month of July one thousand nine hundred and forty-six, being present in the office of the Ministerio Publico Señor Carlos W. Elmenhorst who, legally called to witness to express himself truthfully in this process he offered to do

so thus and said: He was 36 years of age, business man, a bachelor, a British subject resident in this capital living in the Villa de Guadalupe in a chalet without a number. Concerning the interrogatory submitted by Señor Don Federico Nottebohm dated the fifteenth day of the month of July one thousand nine hundred and forty-six he answered in the following manner. (1) "Let them tell you whether they have known Don Federico Nottebohm for several years having kept up social and commercial relations with him." He answers: yes he has known Don Federico Nottebohm for more than ten years and yes he has kept up social and commercial relations with him. (2) "Let them say whether from their personal knowledge of the said Señor Nottebohm and from their dealings with him they know and are certain that he never belonged to the German Nazi Party nor to any other political group of any country at war with Guatemala." He answers Yes he knows that Señor Nottebohm never belonged to the German Nazi Party nor to any other group of a political nature of any country at war with Guatemala. (3) "Let them tell you if it is true to their knowledge that Don Federico Nottebohm never attended meetings of the German Nazi Party and that he never co-operated directly or indirectly towards the aims of that political Party." He answers yes he knows for certain that Don Federico Nottebohm never attended meetings of the German Nazi Party and that he never co-operated directly or indirectly towards the political aims of that party. (4) "Let them say whether it is true to their knowledge that Don Federico Nottebohm never attended the voting which took place on board the S.S. *Cordillera* and that neither did he go to vote for any purpose on board any other ship." He answers yes he knows that Don Federico Nottebohm did not attend the voting which took place on board the S.S. *Cordillera* and that neither did he go to vote for any purpose on board any other ship. (5) "Let them say whether they know for certain from all the relations they have had with Don Federico Nottebohm that the said man has not had mercantile activities of any kind or in any capacity with black-listed persons or corporations." He answers yes he knows it for certain, particularly from the knowledge he has had of the mercantile activities of Don Federico Nottebohm that the said man at no time and in no capacity has had relations with black-listed persons or corporations. (6) "Let them say if it is true to their knowledge that Señor Nottebohm has not co-operated in any way with the enemies of Guatemala?" He answers Yes he knows it for certain that Señor Nottebohm has not co-operated in any way with the enemies of Guatemala. (7) "Let them say if from the close relations which they have had with Don Federico Nottebohm they know that he has always shown himself loyal and sympathetic towards Guatemala?" He answers that he has never had what could be called close relations with Señor Nottebohm, and that such relations as he has had were largely of a commercial nature but that he would like to put on record that he had never shown any other feelings towards Guatemala than loyalty and sympathy. In answer to questions he declared that he has no relationship or intimate friendship with Señor Nottebohm and that no (financial) interest moves him to make this declaration. He ratified this writing which was read to him and signed it together with the Procurador General of the Nation and the Secretary who authorized Witnessed (signed) Marcial Mendez M., Carlos W. Elmenhorst Before me F. Saavedra T., here is the respective Seal.

- 15 Señor Procurador General of the Nation. SUBJECT FEDERICO NOTTEBOHM WEBER: KARL HEINZ NOTTEBOHM natural-born Guatemalan subject, with reference to the matter in hand in the Ministerio Publico under your worthy Ministry, and having my office for receiving communication at 8th Avenida Sur. No. 31, humbly allow myself to beg you to require my representation as general Attorney for my uncle FEDERICO NOTTEBOHM WEBER according to the general power of Attorney annexed hereto which consists in the document No. 54 dated the seventeenth day of March one thousand nine hundred and thirty-nine made out by Advocate Don Federico Salazar Gatica. I beg you to be so good as to return to me this document certified at my expense in the proceedings of my uncle Federico Nottebohm Weber. Thanking you in advance for this favour I sign myself your humble and obedient servant, Art. 108 Dto. 1812 (*Signed*) Karl Heinz Nottebohm. Secretariat of the Ministerio Publico Guatemala, C.A., received 11th July 1946 at 11.55 hrs by the Licenciado R. Lopez. 5027.

MINISTERIO PUBLICO Guatemala the thirteenth day of July one thousand nine hundred and forty-six. Let the presenter be held Attorney of Don Federico Nottebohm Weber with reference to the accompanying power of attorney which it is to be returned to him, being certified and enrolled at his expense. (*Signed*) Marcial Mendez M., F. Saavedra T., here is the respective seal.

THE UNDERSIGNED SECRETARY OF THE MINISTERIO PUBLICO CERTIFIES That he has seen the document that copied out reads as follows "Señor Procurador General of the Nation. SUBJECT: Federico Nottebohm Weber. KARL HEINZ NOTTEBOHM Guatemalan natural-born subject in the matter in hand in the Ministerio Publico under your worthy Ministry and with his office for communications at 8th Avenida Sur. No. 31, humbly allow myself to beg you to recognize my representation as general attorney of my uncle FEDERICO NOTTEBOHM WEBER. According to the general power of attorney annexed hereto which consists of the document number 54 dated the seventeenth day of March one thousand nine hundred and thirty-nine, made out by the Advocate Don Federico Galazar Gatica. I beg you to be so good as to return to me this document being certified at my expense in the proceedings of my Uncle Federico Nottebohm Weber. Thanking you in advance for this favour I sign myself your humble and obedient Servant. Art. 108. Dto. 1812. (*Signed*) Karl Heinz Nottebohm.

Secretariat of the Ministerio Publico Guatemala C.A. received 11th July 1946 at 11.55 hrs by the Licenciado R. Lopez 5027 Ministerio Publico Guatemala the thirteenth day of July one thousand nine hundred and forty-six. Let the presenter be held Attorney of Don Federico Nottebohm Weber with reference to the accompanying power of attorney which is to be returned to him being certified and enrolled at his expense. (*Signed*) Marcial Mendez M., F. Saavedra T.—Here is the seal which says Ministerio Publico Republic of Guatemala.

- 16 INSERTION. Federico Salazar, Carlos Salazar and Son, Advocates and Notaries. Public document of power of attorney granted by Don Federico Nottebohm Weber in favour of Karl Heinz Nottebohm Stoltz Number fifty-four. In the city of Guatemala the seventeenth day of March one thousand nine hundred and thirty-nine, before me the notary and the witnesses legally suitable, to my knowledge, and resident in

this city, to which I give my faith Señora Dona Elis a Borges de Alvarez and Don Ramon Alvarez, there appeared Don Federico Nottebohm Weber. Fifty-eight years of age, bachelor, business man, a German, he speaks and writes Spanish, resides in this city and is registered in the civil registry of this capital as a resident alien according to the certificate of the said office which I give my faith that I have seen produced. I give my faith that I know him and have seen his Boleto de Vialidad for the current week which shows him to be in full exercise of his civil rights, and who acting in his own behalf *Declares*: that by this present deed he confers his general, full, complete and sufficient power of Attorney upon Señor Don Karl Heinz Nottebohm Stoltz resident in this city so that he may represent him in whatsoever matters in which the grantor may have an interest, whether judicial, extra-judicial, commercial, administrative, or of voluntary jurisdiction. To this effect the Attorney shall have all the general faculties of mandate, judicial procuratorship, and the following special ones; viz. to buy, sell, mortgage [hipotecar], transact, let and lease [both are "arrendar"]; and dispose in any way of the property of the principal; to make, novate, discharge, all kinds of contracts, to endorse, accept, and protest letters of exchange, cheques, bills of exchange or whatever other document of credit; to execute documents of whatever kind; to attend meetings of creditors and meetings of any other kind with voice and votes; to approve liquidations and accounts, to receive sums, to remit debts, to alienate any title, and to go stand surety; to appear before any authority judicial or administrative to question and absolve in interrogatories; to submit any matter to arbiters of law or to arbitrators, to name them and propose them; to recognize signatures; to proceed for delicts or to accuse criminally; to prolong jurisdiction; to waive judgments, claims, appeals, incidents, defences and recusations [challenges] as well as to renounce them; to make or to renounce transactions; to make compromises and agreements in respect of any litigation to apply for and receive adjudication of property in payment; to confer and revoke special powers and to confer upon substitutes wholly or in part this power whether or not reserving the right to exercise it or to revoke the substitutions. I read this writing to the Grantor in the presence of the above-mentioned witnesses, and being aware of the contents and legal effects he approved, ratified, and signs it. Witnessed Federico Nottebohm, Elisa B. v. de Alvarez, Ramon Alvarez, before me Fed. Salazar. This is the first copy which after comparing it and being about to hand it to the attorney I seal and sign in the place and the date of its granting upon this, the only page. (*Signed*) Fed. Salazar. Here is the seal which says Federico Salazar Advocate and Notary.

Memorandum. This document was registered under the number of order 8126 Folio 216 of the fourth book of the register of mandates which for this purpose is kept in the general archive of protocols, Guatemala twenty-first day of March one thousand nine hundred and thirty-nine. (*Signed*) Juan José Muñoz. Here is the seal which reads General Archive of Protocols, Guatemala. And to add to the proceedings I execute seal and sign the present certified copy on two effective sheets duly compared with the original in Guatemala on the seventeenth day of the month of July one thousand nine hundred and forty-six. (*Signed*) Marcial Mendez M.; F. Saavedra T. Secretary. Here is the seal which says Secretariat of the Ministerio Publico Republic of Guatemala.

- 17 Señor Procurador General of the nation Proceedings No. 46 with reference to Don Federico Nottebohm, I KARL NOTTEBOHM STOLTZ in my capacity as attorney of my uncle Don Federico Nottebohm, respectfully appear in the matter of the proceedings now being conducted so that my principal may not be subjected to the provisions laid down to expropriate property. I respectfully appear and Declare: That it is in accordance with the rights of my principal that there should be annexed to this proceedings the testimony executed by the Secretary of the Supreme Court of Justice of the judicial register No. 14 in the Registry of the said Supreme Court of Justice, and which proves fully and legally that Señor Federico Nottebohm is not a Guatemalan, nor a German, but a citizen of the Principality of Liechtenstein. Will you be so good as to annex the document which accompanies to its antecedents and to take it as proof in favour of the petitioner.

Guatemala 18th July 1946 (*Signed*) Karl Heinz Nottebohm Stoltz. Secretariat of the Ministerio Publico Guatemala. C. A. Received 18th July 1946 at 14.40 hrs by the presenter 5278.

SECRETARIAT OF THE MINISTERIO PUBLICO Guatemala the eighteenth day of July one thousand nine hundred and forty-six. Put with its antecedents and accept as proof on the part of the presenter. (*Signed*) Marcial Mendez M.—F. Saavedra T.; here is the respective seal.

- 18 First testimony of the judicial register number ONE HUNDRED AND FORTY-SIX. In the Registry of the Supreme Court of Justice which refers to the citizenship belonging to FEDERICO NOTTEBOHM. Guatemala 17th July 1946.

Sheet one, The undersigned Advocate and Notary and present Secretary of the Supreme Court of Justice CERTIFIES:—That for this purpose he has seen the writing, its provision and its registration which reads as follows. "Señor Presidente del Poder Judicial I KARL HEINZ NOTTEBOHM STOLTZ 36 years of age, married; business man, Guatemalan and resident here having notified to receive communications the office of my lawyer representing me the Licenciado Carlos Rafael Lopez Estrada, situated in the 4th Avenida Sur, No. 20, in this City respectfully appear to request that with due formality of law I may have executed four copies of the instrument registered in the registry of the judicial organization, bearing number 147 and which refers to the citizenship of Don Federico Nottebohm. May, the Señor Presidente make an order to this effect. Articles 279 of Decree 2009, and 101 of Decree 1862. Guatemala 16th July 1946. (*Signed*) Karl Heinz Nottebohm Stoltz: assisted by (*signed*) C. R. Lopez E. (Seal of Advocate)." "Presidency of the Judicial Organization Guatemala sixteenth day of July one thousand nine hundred and forty-six. At the expense of the person in question let there be executed by the Secretary of this organization the four copies he requests. Articles 13 Administrative Decree No. 2374, 3rd Legislative Decree no. 2556. (*Signed*) Prado—Juan Fernandez C."

NUMBER ONE HUNDRED AND FORTY-SEVEN, City of Guatemala the fifteenth day of the month of July one thousand nine hundred and forty-six the undersigned Secretary of the Supreme Court of Justice proceeds to copy the following documents in virtue of the order provided dated as above mentioned. The Undersigned Translator and Juror of German-Spanish certifies having examined a document drawn up in that language and which, done into Spanish says.

"CERTIFICATION Señor Federico Nottebohm business man in Guatemala, born the 16th day of September one thousand eight hundred and eighty-one (1881) has with effect from the 13th 10. 1939 the nationality of Liechtenstein and is resident in the community of Liechtenstein MAUREN. Vaduz the 6th May 1946. Governor of the Principality (*signed*) Erick. (seals) Government of the principate of Liechtenstein. And in witness of the truth of this I execute sign and seal these presents in Guatemala 12th July 1946 (*Signed*) Carlos Dubois".

There is a seal No. 218. Duty paid No. 3. The undersigned Consul of Guatemala certifies; that the signature is authentic and reads "Frick of the authority Regierung L. Fürstentum Liechtenstein. Zürich 18th May 1946 the consul (*signed*) R. Bracher. There is a seal.

The Undersecretary for Foreign Relations CERTIFIES: that the signature of the Licenciado René Bracher is authentic and that at the time of writing it he was carrying out the duty of Consul of Guatemala at Zürich, Switzerland. Guatemala 11th July 1946. (*Signed*) Art. Herbruger A. Note the Ministry of Foreign Relations takes no responsibility for the contents of this document. There is a seal and appropriate stamps."....

"Señor Presidente del Poder Judicial. I KARL HEINZ NOTTEBOHM 19 36 years of age married, business man, Guatemalan and resident here notifying to receive communications the office of my lawyer and representative Licenciado Don Carlos Rafael Lopez Estrada, situated in the 4th Avenida sur No. 20 in this city, respectfully appear and declare. In conformity with clause (g) of Article 4 of Decree 1862 I come to beg you humbly to give legal effect to the document which annex hereto and which is duly authenticated by the Secretariat of Foreign Relations, and translated from German into the legal language of the Republic Guatemala 13th July 1946 (*signed*) Karl Heinz Nottebohm. Assisted by (*signed*) C.R. Lopez E. There is a seal of advocate and notary."

"Presidency of the Judicial Organization, Guatemala Fifteenth day 20 of July one thousand nine hundred and forty-six. Legal effect is given as asked to the annexed certificate which refers to the citizenship of señor FEDERICO NOTTEBOHM, executed in Vaduz by the representative of the Government of the Principality of Liechtenstein which is signed Frick and dated sixth day of May of the current year. let the appropriate Notarial certificate be issued. Article 49 Administrative Decree No. 1862 (*signed*) Prado Juan Fernandez C." "Before me Juan Fernandez C." THIS IS THE FIRST COPY which, duly examined with the original and to be given to Señor Karl Heinz Nottebohm Stoltz is executed on two effective sheets in the city of Guatemala on the seventeenth day of the month of July, one thousand nine hundred and forty-six the first sheet is stamped one quetzal, bearing the number A-032048-Reg-032190 and this one five centavos bearing the number A-2586640-Reg. 2587165. both of the current five years. (*Signed*) Juan Fernandez C.—There is a seal which says "Secretariat of the Supreme Court of Justice Republic of Guatemala C.A. Judicial Organisation.

Señor Procurador General of the Nation: I KARL HEINZ NOTTE- 21 BOHM, humbly appear, to refer, in my capacity as attorney of Don Federico Nottebohm, to the proceedings being conducted to prevent

the application to him of the measures laid down to expropriate property and I *declare*: That I come to add to the proceedings in question certificates executed by the Instituciones de Beneficencia y Providencia Social (Public Welfare) and which are concerned with the general advancement of Guatemala, because the said certificates which I annex hereto, show that Don Federico Nottebohm has shown philanthropic feelings and a great love towards Guatemala. The contents of the certificates annexed are very honouring both to my principal and to myself; one of which shows that in proof of its gratitude the Sociedad Protection del Niño (Society for protection of Children) conferred upon Don Federico Nottebohm a diploma of honour and the right to wear the enamel badge of the Sociedad Protectora del Niño. The certificates to which I refer are executed in favour of the Casa Nottebohm and for this reason I annex a further certificate which shows that Don Federico Nottebohm is managing Partner of the said Casa Nottebohm. May the señor Procurador General of the Nation accept the annexed documents and take them in proof in favour of my principal. Guatemala 23rd July 1946. Karl Heinz Nottebohm Secretariat of the Ministerio Publico Guatemala C.A., received 23rd July 1946 at 16.50 hrs personal 5414.

MINISTERIO PUBLICO Guatemala twenty fourth July 1946 (in full) let the accompanying documents be taken as proof on behalf of Don Federico Nottebohm (*signed*) Marcial Mendez M., F. Saavedra T. here is the respective seal.

- 22 By the presents to the Accountant of the Central Bank who signs below, CERTIFIES: That he has examined the cheque No. 223093 which reads on the Front "Cheque No. C.-223093, Guatemala 29th November 1944 BANCO CENTRAL DE GUATEMALA. Pay to the order of the central Welfare Committee (Comité Central de Socorro) Q.1050. ONE THOUSAND AND FIFTY QUETZALS in accordance with note of 7th November 1944 of the Secretariat of Hacienda y C.P. P.P. NOTTEBOHM BROS. (*signed*) Guillermo Grote." There is a seal which says "NOTTEBOHM HNOS Guatemala C.A." On the back of the same cheque it says "Comité Central de Socorro, G. Iselein h.—(there are two seals which say) "Chamber of Commerce and Industry of Guatemala" "Banco Central de Guatemala—Cancelled—2nd December 1944". This cheque was charged to the account "Frozen Deposits" of the House Nottebohm Bros. And at the request of the said Messrs. Nottebohm Bros. this certificate was executed in the city of Guatemala on the eighteenth day of the month of July 1946 (in full) (*signed*) Manuel Luna H. Contador. Vo. Bo. Lic. Jose Falla Aris Manager. There is a seal which says "Banco Central de Guatemala".
- 23 The Undersigned Secretary substitute of the Sociedad Protectora del Niño certifies: That the House Nottebohm Bros., and every one of its partners individually, have been constant benefactors of this society. Enumerated below are the various donations received as set forth in the Society's Books. In the year 1938 Nottebohm Bros. presented to the Society a ward in the Casa del Niño No. 1 with sanitation including washbasins, W.C.'s, Showers, and Electric ventilation, at a cost of about 10,000.00 Quetzals. This same year Nottebohm Bros. made the gift of a large "Autoclave" [presumably a washing machine], to disinfect clothing, bedding, etc., of the value of Q. 500.00 more or

less. Also in 1938 Karl Heinz, Erika and Carmen Nottebohm as heirs of Don Arturo Nottebohm and in the name of their late Father, gave Q. 2,500.00 to continue the building of the Casa No. 1. From 1928 till Nov. the Casa Nottebohm has contributed Q. 10.00 monthly which makes a total of Q. 2,200.00, besides which the following gifts have been received.... Nottebohm Bros. Q. 600.00.... Heinz Nottebohm Q. 10.00.... Gert Nottebohm Q. 10.00.... Federico Nottebohm Q. 100.00.... Kurt Nottebohm Q. 35.00.... Carmen Nottebohm Q. 6.15.... Arturo Nottebohm Q. 100.00. In proof of the gratitude of this Society to Federico Nottebohm he was granted on 14th June 1938 a diploma of Honour and the right to wear the enamel Badge of the Sociedad Protectora del Niño. At present Doña Erika Nottebohm van der Goltz is an active partner and lends us her personal aid. And for whatever purposes it is required this present certificate is executed in Guatemala on the eighteenth day of the month of July 1946 (in full) (signed) Illegible. Substitute Secretary, Vo. Bo. Illegible. President.

The Undersigned Chief of the Guatemalan Red cross office 24
 CERTIFIES: That for this purpose he has examined the book of Records No. 1 of Monthly Quotas of founder members and of the weekly Subscription Account, in the first of which is found the minute "which reads as follows" 2nd. The Secretary of the organizing body Dr. Ezequiel Sora, read the previous minute which in one of its points contained the names of persons elected to form the Directing Council, according to the Statutes, Fellows.... President.... 1st Vice President.... 2nd Vice President.... Voting members Señor Arturo Nottebohm. Concerning the Quotas the annual payment of Q. 24.— from 1924 to the first half of the current year by Nottebohm Bros. and in the book of the weekly contributions the entries which say:—Book of....

Cash-book	1924 folio	6 S. Funds	Nottebohm Bros.	Q.	50.00
"	"	"	"	"	2.00
"	No. 1 1927	"	18	"	50.00
"	" 1928	"	38	"	50.00
"	" 1929	"	68	"	50.00
"	No. 4 1936	"	94	"	100.00
"	No. 5 1937	"	55	"	100.00
"	No. 6 1938	"	3	"	100.00
"	No. 6 1939	"	79	"	100.00
"	No. 8 1940	"	5	"	100.00
"	No. 8 1941	"	22	"	100.00
"	No. 8 1942	"	34	"	20.00
"	No. 8 1944	"	68	"	10.00

And to hand to Messrs Nottebohm Bros., at their request these presents are drawn up on one effective sheet and in quadruplicate and duly compared with the originals. Guatemala twentieth day of July 1946 (in full). Honorario Q. 0.20 (signed) Illegible. Chief of the Office Vo. Bo. Illegible. There are two seals which say "Guatemalan Red Cross Secretary, Presidency Guatemalan Red Cross.

"Cesar de Garro y Beltran President of the Society of St. Vincent 25
 of Paul established in this city States: that among the most regular benefactors of the said Institution he has been happy to count Notte-

bohm Bros. of this place who have for many years made a free-will donation every six months of twenty five dollars of Quetzals, besides other gifts from time to time made in favour of the said Society ; and that Don Federico Nottebohm personally has also been a generous contributor, for which both the said gentleman and the House of which he is a member have earned the gratitude and special appreciation of the benevolent Institution over which I preside. As an act of justice and for whatever purposes may suit our said benefactor I execute these presents in the City of Guatemala the eighteenth day of July 1946 (in full) (*signed*) Cesar de Garro y Beltran. Here is the seal which says "Society of St Vincent of Paul General Council Guatemala C.A."

- 26 NOTARIAL RECORD. In the city of Guatemala at ten o'clock on this twentieth day of July 1946 (in full). In my office number twelve of the fifth Avenida del Sur., and before the legally qualified witnesses Don Ramon Alvarez (his only surname) and Don Ramon Aguilar Gonzales I certify at the request of Señor Don Karl Heinz Nottebohm Stoltz that I have before me the constitutive document of the partnership "NOTTEBOHM BROTHERS" of this place authorized by me the ninth of June 1939 (in full) in which is set forth that the body "NOTTEBOHM BROTHERS" is a "Sociedad comandita simple" (Simple Co-mandatory Partnership) consisting of the managing partners Don Federico Nottebohm Weber and Don Karl Heinz Nottebohm Stoltz and by the co-mandatory partners Dona Erika Nottebohm Stoltz de von der Goltz and Miss Carmen Nottebohm Stoltz. This deed is executed and to remain in the hands of Don Karl Heinz Nottebohm Stoltz, at ten o'clock on the day above mentioned signed by the undersigned Notary with the above-mentioned witnesses on this one sheet Witnessed by (*signed*) Ramon Alvarez : Ramon Aguilar G. Before me Illegible Here is the seal which says Carlos Salazar Gatica Advocate and Notary".
- 27 MINISTERIO PUBLICO : GUATEMALA TWENTY-NINTH OF JULY 1946 (in full) Regarding the proceedings three days (*signed*) Marcial Mendez M., F. Saavedra T. ; here is the appropriate seal. MEMORANDUM Trial ordered for the 21st Aug. 1947.
- 28 Señor Procurador General of the Nation Proceedings No. 46 I KARL HEINZ NOTTEBOHM STOLTZ humbly appear as attorney of Don Federico Nottebohm Weber and *declare* : That in the interests of my principal it would be convenient to annex to the aforesaid proceedings the accompanying body of documents, containing the declarations of the Licenciada Joa Maria Reyna Andrade. Ex-President of the Republic that which declaration he made as Vice-President of the Council of State. That of Señor Don Carlos Herrera Dorion which he made as Vice-President of the National legislative Assembly and second designate for the Presidency of the Republic ; that of Dr. Don Jose Luis Asensio, Chief of the Guatemalan Red Cross ; that of Señor Don Roberto Fischer, which he made in his capacity of Swiss Consul in Guatemala ; that of Señor Don Mario H. Willemsen, honourable Dutch subject ; that of Señor Arthur Neale, Ex Civil Attaché of the British Legation and of Señor Daniel W. Orbaugh, Accountant and Auditor of the United States of America. May the Señor Procurador annex these certificates to the proceedings to which I refer as proof in favour of the petitioner Guatemala 25th July 1946 (*signed*) Karl Heinz Nottebohm Stoltz,

Secretariat of the Ministerio Publico Guatemala C.A. Received 25th July 1946 16.30 hrs by the presenter 5534.

SECRETARIAT OF THE MINISTERIO PUBLICO Guatemala twenty-seventh day of July 1946 (in full). Add to its antecedents with accompanying documents (signed) Marcial Mendez M., F. Saavedra T.; here is the appropriate seal.

The Undersigned Secretary of the Ministerio Publico Certifies: That he has examined the writing, its provisions and documents which read as follows:—Señor Procurador General of the Nation I KARL HEINZ NOTTEBOHM STOLTZ respectfully appear with reference to the Proceedings being conducted in this office so that the provisions laid down for the expropriation of property be not applied to me, and I declare: That it is in my interests that there should be annexed to the above-mentioned proceedings the declarations of the Licenciado José Marcia René Andrade, Ex-President of the Republic, which declaration he made when discharging the office of Vice-President of the Council of State; that of Señor Don Carlos Herrera Dorion which he made as Vice-President of the National Legislative Assembly and Second designate for the Presidency of the Republic; that of Dr. Don José Luis Asensio Chief of the Guatemalan Red Cross; that of Señor Don Roberto Fischer, which he made in his capacity as Swiss Consul in Guatemala; that of Mr. Arthur Neale Ex Civil Attaché of the British Legation and that of Mr. Daniel W. Orbaugh Accountant-Auditor of the United States of America; that of Señor Mario H. Willemssen honourable Dutch subject. May the Procurator annex these certificates to the proceedings to which I refer and issue to me separately two certified copies of the accompanying dossier including the sworn translation thereof and contained in files. Guatemala 15th July 1946 Karl Heinz Nottebohm Stoltz. OTHERS:—I rectify my petition contained in the last preceding paragraph, in which I mean that I desire that, leaving certified in the proceedings which I refer to the certificate annexed consisting of 8 sheets, it may be returned to me. Date last above written Karl Heinz Nottebohm Stoltz.

Secretariat of the Ministerio Publico, C. A. received 15th July 1946 at 16.45 hrs by the presenter 5170.

MINISTERIO PUBLICO Guatemala Seventeenth day of July 1946. Let the accompanying documents be taken in proof on behalf of the presenter, and let them be returned to him certified as informed. (Signed) Marcial Mendez Montenegro (Signed) F. Saavedra T. Here is the seal of the Ministerio Publico which says Ministerio Publico Republic of Guatemala.

INSERTION. PETITIONS OF SEÑORA BARBARA NOTTEBOHM. Señor 29 Secretary of State in the Office of Foreign Relations; I, Barbara Nottebohm, of full age, married, housewife, born and resident in this capital very humbly present in this Secretariat the documents which follow, relating to the persons of my husband Don Carlos Heinz Nottebohm Stoltz and my uncle by marriage Don Federico Nottebohm Weber who are at present interned in concentration camps in the United States of America. These documents are letters written at my request by prominent persons in this city, in which they declare that they know of the good conduct of the Señores Nottebohm. Among these letters are those of the Licenciado Don José María Reyna Andrade Ex President of the Republic and at present vice-president of the Council of State; that of Señor Don Carlos Herrera Dorion at present Vice-President of the

National Legislative Assembly and Second Designate for the Presidency of the Republic ; that of Señor Don José Luis Asensio chief of the Guatemalan Red Cross ; that of Señor Don Roberto Fischer Swiss Consul in Guatemala ; that of Señor Mario H. Willemsen distinguished Dutch subject ; that of Mr. Arthur Neale ex Civil Attaché of the British Legation ; and that of Mr. Daniel W. Orbaugh Accountant Auditor of United States nationality. I ask you that the documents which I annex may form part of proceedings in this Secretariat, for which they may be of use, and at the same time I request that you will order the Under-Secretary to give me a certified copy of this memorandum and of the accompanying documents Guatemala 25th March 1944 (*signed*) Barbara Nottebohm.

RESOLUTION NUMBER 183 OF THE SECRETARIAT OF RELATIONS : SECRETARIAT OF FOREIGN RELATIONS. Guatemala twenty fifth day of March 1944 (in full) Put in the Archives for future reference and with notice to the Ministerio Publico execute the certificate at the expense of the person in question (*Signed*) Salazar C. Fernandez Cordova (Seal) Secretariat of Foreign relations Republic of Guatemala, C. A.

I CERTIFY that the petition and in conformity with the originals. C. Fernandez Cordova. Here is the seal which says Secretariat of Foreign Relations Guatemala twenty-ninth day of March 1944 (in full) Vo. Bo. (Signature Illegible.)

- 30 LETTER OF THE LICENCIATE DON JOSÉ MARIA REYNA ANDRADE EX-PRESIDENT OF THE REPUBLIC AND AT PRESENT VICE-PRESIDENT OF THE COUNCIL OF STATE. TO WHOM IT MAY CONCERN BY this present letter I make known that I have known the Señores Don Federico and Arturo Nottebohm, working in this country at agricultural work, and subsequently broadening their activities founding a Banking House at present entitled "Nottebohm Brothers" as its registered name, which, on the decease of Don Arturo his successors including his son Don Carlos, continued with Don Federico in the same business. Both men have earned good will and social recognition as well as a good commercial and banking reputation, without to my knowledge meddling in political matters, or contradicting democratic and Pan-American doctrine for it is obvious that having so strong and respected a fortune, it would not be wise to expose themselves to the risk of compromising themselves in adventurous enterprises with the neo-fascist system. Guatemala 12th March 1944 (*signed*) J. M. Reyna Andrade.

I CERTIFY that the above transcribed is authentic and in conformity with the original C. Fernandez Cordova. Here is the seal which reads Secretariat of Foreign Relations Vo. Bo. Subsecretary of Foreign Relations Illegible.

- 31 LETTER OF SEÑOR DON CARLOS HERRERA DORION PRESENT VICE-PRESIDENT OF THE LEGISLATIVE ASSEMBLY AND SECOND DESIGNATE FOR THE PRESIDENCY OF THE REPUBLIC. To whom it may concern. I have known Don Federico Nottebohm Personally, and have had business relations with Don Carlos Nottebohm. Both are directing members of the Society Nottebohm Brothers and I understand that their ideology is contrary to the Nazi regime. (*Signed*) C. Herrera Guatemala 7th March 1944.

I certify that the preceding letter is authentic and conforms to the original C. Fernandez Cordova. Here is the seal which says Secretariat

of Foreign Relations Republic of Guatemala twenty second day of March 1944 (in full).

LETTER OF DOCTOR DON JOSÉ LUIS ASENSIO PRESIDENT OF THE GUATEMALAN RED CROSS.—Guatemala, March 22nd, 1944.—To whom it may concern : for about thirty years, I have known Mr. Frederick Nottebohm, who has been in business in this country for many years. I have known him as an honest man, with a good social and business reputation and keeping away from politics. In the actual war situation, I know that he has been decidedly anti-nazi. Mr. Carlos Nottebohm on account of the difference [*sic*] in ages I do not know and business reputation, but he, also, has at [*sic*] good social (*signed*) J. L. Asensio, Pres. understand that he has been anti-nazi. (seal) Guatemala Red Cross.—Presidency. 32

I CERTIFY : that the preceding letter is authentic and conforms to the original C. Fernandez Cordova (here is the seal of the Secretariat of Foreign Relations Guatemala twenty ninth day of March 1944 (in full) Vo.Bo. Signature Illegible.

LETTER OF SEÑOR ROBERTO FISCHER, SWISS CONSUL IN GUATEMALA : To whom it may concern : I make known by these presents that I have known Señor Don Federico Nottebohm member of the business house of Nottebohm Bros. in Guatemala, for over thirty years. I have always known him as an upright honest man both in his private life and in his business, and I have never known him to meddle with politics. Don Federico Nottebohm belongs to one of the most important commercial families in Hamburg. Its members are all well known to maintain the old tradition of commercial honesty. I have never noticed any pro-nazi tendencies in him nor do I believe it possible that he should, in view of the important capital accumulated over generations by the Nottebohm family, expose this private commercial enterprise to the risk that the nazi system should certainly gain control of it. I am less acquainted with Don Carlos Nottebohm but I know he has received the same traditional upbringing as have the other members of the Family (*Signed*) Roberto Fischer. Guatemala 7th March 1944. 33

I CERTIFY that the foregoing letter is authentic and conforms to the original. C. Fernandez Cordova Under-Secretary of Foreign Relations, twenty-ninth day of March 1944 (in full). Vo.Bo. Signature Illegible. Here is the seal of the Secretariat of Foreign Relations.

LETTER OF SEÑOR MARIO H. WILLEMSSEN OF COMMERCIO DE GUATEMALA. To whom it may concern : I make known that I have known the señores Don Federico Nottebohm and Don Carlos Nottebohm for many years both personally and in business relations, and from this knowledge I know them to be managers of the House of Nottebohm Brothers, in my opinion they do not sympathize with nazi ideas ; they are persons who have lived many years in Guatemala gaining the goodwill of the different sections of our society (*Signed*) Mario H. Willemsen Guatemala 7th March, 1944.

I CERTIFY : That the foregoing letter is authentic and conforms to the original C. Fernandez Cordova Undersecretary of Foreign Relations Guatemala twenty-ninth day of March 1944 (in full) Vo. Bo. Signature Illegible. Here is the seal of the Secretariat of Foreign Relations.

35 LETTER OF MR. ARTHUR NEALE EX CIVIL ATTACHÉ OF THE BRITISH LEGATION.—March 7th. 1944, Guatemala City.—To whom it may concern : As Civil Attaché to his Britannic Majesty's Legation in Central America, I conducted thorough investigation into the firm of Nottebohm Hermanos and its directors. The business transactions of the firm since August 1939 up to September 1943 were scrutinized by myself and a chartered accountant, and we were unable to find any instance of the firm having aided the enemy. At [sic] the result of the investigation I was satisfied that the charges made against Nottebohm Hermanos, which resulted in its being placed on the Statutory List in 1939, were based on erroneous evidence or on confused statements given in good faith.—At the same time I conducted an investigation into the life of the partners, FEDERICO NOTTEBOHM and KARL HEINZ NOTTEBOHM, and come to the conclusion that neither had aided the Nazis in a business or private capacity.—From the investigations and from personal knowledge of the partners I am of opinion that they should not be considered Nazi sympathizer [sic] (Signed) Arthur Neale.

I CERTIFY : that the foregoing letter is authentic and conforms to the original C. Fernandez Cordova Undersecretary of Foreign Relations Guatemala twenty-ninth day of March 1944 (in full). Vo. Bo. Signature Illegible (Here is the seal which says Secretariat of Foreign Relations).

36 LETTER OF MR. DANIEL W. ORBAUGH ACCOUNTANT AUDITOR OF UNITED STATES NATIONALITY.—TO WHOM IT MAY CONCERN : During the year 1941, as an authorized Accountant, I was engaged by Nottebohm Hnos. of Guatemala, to make an examination of their accounts and records for the purpose of making a report, to be submitted to the American Legation, converging[sic] any transactions which might be judged as unfriendly toward the United States, or that were to the benefit of the German Government. After three months of detailed investigations I made an extensive report on their business activities which included every thing I found that was related to the subject matter ; I found no evidence on their part of financial aid, or of sympathy toward the present Nazi regime. All transactions were made on a strictly banking or commercial basis for the purpose of profit. During normal times approximate a two-thirds of their enormous import-export business was transacted with firms in the United States. Mr. Federico Nottebohm is senior partner of their firm, Karl Heinz Nottebohm is also an active partner, and there are two women (both natural born Guatemalans) who have an inactive partnership interest. I have known Mr. Federico Nottebohm by sight since many years but I first came into direct contact with him and his nephew Karl Heinz, while engaged in preparing the above-mentioned report.—As a result of inquiries made of sources outside their business I learned that Mr. Federico Nottebohm a number of years ago became a naturalized Swiss citizen, and that Karl Heinz is a natural Guatemalan citizen and that he officially reputedated[sic] the claim any other nation might make on his citizenship.—Throughout my investigation I found nothing to indicate that either of the persons had committed acts or held views unfriendly toward the United States ; the foregoing applies [sic] to the firms as well as to the persons. In conclusion, I state that as an American citizen, I learned about them during my investigation. (Signed) Daniel W. Orbaugh Guatemala C.A. March 22 1944. Copy to American Embassy in Guatemala.

I CERTIFY : that the foregoing letter is authentic and conforms to the original. C. Fernandez Cordova. Undersecretary of Foreign Relations Guatemala twenty ninth day of March 1944 (in full). Here is the seal which says Secretariat of Foreign Relations Republic of Guatemala. C.A. Vo.Bo. E. Salazar. In 3 sheets, Five pages. My Number 3,847.

I LAFREDO A. GODOY : SWORN TRANSLATOR of the English and Spanish languages in and for the Republic of Guatemala C.A. Authorized to execute this function under Administrative Order of the seventh of May 1944 Residing at 10th Calle Oriente No. 24 in this City Under Oath [protesta] to tell the truth CERTIFY by these presents : That Today Saturday the thirteenth (13) of July 1946 (in full) (1946) I examined a certificate of the Ministry of Foreign Relations of this Republic dated the twenty-ninth (29) of March 1944 (in full) and written on the sheet of paper stamped to the value of ten centavos of a quetzal No. A-2089863 and the reverse thereof and continued on sheet No. A-2089864 of the present five years. That the said Ministry certified a letter written in English which to my honest knowledge and understanding reads, translated

[Here follows a translation into Spanish of Don Luis Asencios' letter above.]

(Signed by) J. L. Ascensio President (seal) of the Guatemalan Red Cross. - Presidency Certified by C. Fernandez Cordova Under Secretary of Foreign Relations (seal of the Ministry). In the same proceedings on sheet A-2089865 and reverse thereof is read the following with its text in English which translated says :

[Spanish translation of Arthur Neale's letter above.]

Certified by C. Fernandez Cordova Undersecretary of Foreign Relations (seal of the ministry). In the same proceedings sheet No. A-2089865 continued on Sheet No. A-02089856 is the following letter which I translate as follows :

[Translation of Daniel Orbaugh's letter.]

(Signed) Daniel W. Orbaugh. Certified by C. Fernandez Cordova Undersecretary of Foreign Relations (seal of the ministry). And I the translator to hand this sworn translation to the person in question, sign it on three effective sheets of stamped paper whose members are related below and I put to them my seals having duly deposited the copy of them in the Registry of the Ministry of Public Education in the city of Guatemala. 13th July 1945 as already referred to all the which I give my faith : Alfredo Godoy. Here is the seal which says "Alfredo A. Godoy Public Accountant and Sworn Translator Guatemala C.A."

And to give coherence in the records these presents are executed on seven effective sheets of stamped paper each of ten centavos of a quetzal Numbered A-417125 ; A-4171726 ; A-4166842. A-3947635 ; A-3947636 ; A-3947603 and A-3947605 respectively which examined with their originals I seal and sign this nineteenth day of the month of July 1946 (in full).

Between the lines, that of Señor Fischer Swiss Consul in Guatemala Undersecretary of Foreign relations. "That he has been decidedly anti-

nazi. Carlos Nottebohm I do not know.—and business reputation and understand that he has been anti nazi”—and Don Carlos Nottebohm—“myself” and he is also an active partner and there are two women, both are natural born Guatemalans, who have a share in the firm of an inactive interest. I have known Don Federico Nottebohm. Sheet No. 3947605 read Witnessed: Federico, Omit. THE OTHER YES. The last sheet of these certificates has the numbers of order A-3947638 and of registration 3948401. Checked. (*Signed*) F. Saavedra T., here is the seal which says “Ministerio Publico Republic of Guatemala”.

MEMORANDUM on this date Señor Karl Heinz Nottebohm received the documents named in this present certificate Guatemala 25th July 1946. Received (*Signed*) Karl Heinz Nottebohm.

- 38 Señor Procurador General of the Nation—Palacio Nacional Subject FEDERICO NOTTEBOHM WEBER: with reference to the proceedings in exercise of preparation in this office concerning the exemption of my property from the expropriation and seizure of enemy property contained in the Emergency legislation I humbly declare that according to information given by the Banco Central de Guatemala the balance of the deposit account in the name of “NOTTEBOHM HERMANOS” kept in that bank, was transferred to the National Treasury by virtue of an Order of the Ministry of the Hacienda y Credito Publico. Without prejudice, and in addition to the protest on this matter presented to the Minister of the Hacienda it is within my rights respectfully to call the attention of the Señor Procurador to the fact that the said deposit of money comes from funds accumulated by payments in our favour made by debtors of this House many of which have not been expropriated and other funds coming from similar sources came in before the respective credits had been expropriated, and in consequence their attachment is not carried out by the Tesorería Nacional. On the other hand, repeating the statements of my Memorandum of the 3rd of July last, it must be taken into account that in my capacity of partner in “Nottebohm Hermanos”, part of the balance transferred to the Tesorería Nacional belongs to me personally and must await the final decision taken in the proceedings for exemption to which I refer. For the reasons given I ask that the resolution of the Ministry of the Hacienda be taken as opposed and that this present memorandum be annexed to the antecedents which are operating in this Ministerio Publico Guatemala 2nd September 1946 p.p. Federico Nottebohm, Karl Heinz Nottebohm. Secretariat of the Ministerio Publico, Received 4th Sept. 1946 at 10.00 hrs No. 6581.

SECRETARIAT OF THE MINISTERIO PUBLICO Guatemala. Fifth day of September 1946 (in full). Put with Antecedents (*signed*) Marcial Mendez Montenegro. F. Saavedra T. Here is the seal which says “Ministerio Publico Guatemala”.

- 39 Señor Procurador Publico of the Nation. Palacio Nacional. Subject. FEDERICO NOTTEBOHM WEBER, with reference to the proceedings being carried through in the Office of your Ministry, taken out to obtain a declaration that as a citizen of Liechtenstein under Swiss protection my property is not subject to the provisions contained in the emergency legislation for their expropriation and seizure and in addition to my petition addressed to you the third day of July last, asking that as a

partner in the Firm "NOTTEBOHM HERMANOS" I may have freed from all expropriation or seizure my shares in the property of the Firm Nottebohm Brothers I make known that in the same capacity as partner in the Firm Nottebohm Brothers, I have a share in the goods which by recent edicts published in the "Diario de Centro-America" have been ordered to be expropriated and which are the following: The General Electric Station (A.E.G.) and the mortgage loans to the following persons Roberto Eichenberger; José Antonio, Concepcion, and Alfredo Lopez Caceres; Francisco Bermudez de Castro Petrilli; Mariano Castillo Azmitia; Licenciare Carlos Salazar Argumedo and Manuel Anzueto Valencia. In accordance with the laws invoked and the facts I have shown in the legal proceedings in progress in the said Ministerio Publico to obtain a declaration that in my capacity of citizen of Liechtenstein under Swiss protection my property should not be subject to the provisions for expropriation and seizure contained in the emergency legislation, I ask you to annex my present petition to the above-mentioned one of the 3rd of July last and I respectfully request the Señor Procurador General of the Nation to have it in readiness for when the time comes to give Judgement. Finally in this matter. Should my petition not be attended to I desire with immediate effect to make known very respectfully my official protest, and I ask that a certified copy of this present memorandum with its decision be given to me.

Guatemala 2nd September 1946 (*signed*) p.p. Federico Nottebohm Karl Heinz Nottebohm. Secretariat of the Ministerio Publico Guatemala C.A. received 4th Sept. 1946 at 10.00 hrs No. 6582.

SECRETARIAT OF THE MINISTERIO PUBLICO: Guatemala Fifth day of September 1946 (in full). Put with its Antecedents. (*Signed*) F. Saavedra T., Marcial Mendez Montenegro. Here is the seal which says "Ministerio Publico Republic of Guatemala."

Señor Procurador General of the Nation. Palacio Nacional.

SUBJECT: FEDERICO NOTTEBOHM WEBER with reference to the proceedings in progress of preparation in the Office of your Ministry, taken out with a view to a declaration that as a citizen of Liechtenstein under Swiss protection my goods are not subject to the provisions which are contained in the emergency legislation concerning their expropriation and seizure and in addition my petition addressed to you the 3rd of July last and the 2nd of September last asking that as a partner in the firm "NOTTEBOHM HERMANOS" my share of the property of the firm Nottebohm Hermanos be freed from all expropriation or seizure. I make known in my said capacity of partner in the firm Nottebohm Hermanos, that I have a share in the property whose expropriation was ordered in recent edicts published in the "Diario de Centro-America". Namely the following the land known as "LOS CHICNARROS", the mortgage loan to Teodoro Petersen and the estates "MEMODIA" and "FILIPINAS" in conformity with the laws hereinbefore invoked and the facts heretofore shown in the proceedings in preparation in the said Ministerio Publico with a view to a declaration that due to my citizenship of Liechtenstein, under Swiss protection my properties are not subject to the provisions of the emergency legislation relating to their expropriation or seizure, I ask you to annex my present petition to those above mentioned of the 3rd of July last, and the 2nd of September last and I respectfully ask the Señor Procurador General of

the nation to keep it in readiness for the time of final judgment in this matter. Should my petition not be heard I desire with immediate effect to make known very respectfully my protest and ask that I may receive a certified copy of this present Memorandum with its decision.

Guatemala 28th November 1946. p.p. Federico Nottebohm. Karl Heinz Nottebohm. Secretariat of the Ministerio Publico Guatemala C.A. received 29th Nov. 1946 at 16.00 hrs by J. Granados 9019.

MINISTERIO PUBLICO Guatemala thirtieth day of November 1946 (in full). Put with its antecedents, have ready when required (*signed*) Marcial Mendez Montenegro; F. Saavedra T. Here is the seal which says "Ministerio Publico Republic of Guatemala, C.A."

- 41 Señor Procurador General of the Nation Subject FEDERICO NOTTEBOHM WEBER Proc. No. 46. In Number 85 vol. XLVIII of the "Diario de Centro América" published the fourth of March present, was published a notice of the Ministerio Publico notifying the time limit of three days for Don Karl Heinz Nottebohm Stoltz and the undersigned to execute a deed of conveyance of the right of ownership of the estate "El Carmen Metzabal" registered under No. 604, Folio 88 of book 8 of Solola. There is in operation in the Ministerio Publico the proceedings started on the 11th June 1945 relative to a declaration that by reason of my position as a citizen of the Principality of Liechtenstein under Swiss protection my property should be exempt from all expropriatory action in consequence the expropriation and conveyance to the State has not going through, with reference to the Estate "El Carmen Metzabal" of which I am co-owner in equal shares with Don Karl Heinz Nottebohm Stoltz as appears in the register. For the reasons stated and in accordance with the law I ask the Señor Procurador General to suspend the expropriation of the said estate as far as my rights of co-ownership in it are concerned. I ask also for a certified copy of this memorandum and of its decision.

Guatemala 5th March 1947 p.p. Federico Nottebohm (*signed*) Karl Heinz Nottebohm. Secretariat of the Ministerio Publico Guatemala C.A. received 5th Mar. 1947 at 16.30 hrs. by Don Jorge Granados. 1952.

MINISTERIO PUBLICO Guatemala Sixth day of March 1947 (in full). Let the Presenter make the requisite proof (*signed*) Marcial Mendez Montenegro—F. Saavedra T. Here is the seal which says Ministerio Publico Guatemalan Republic.

- 42 And to hand to the Señor Federico Nottebohm I execute this present certified copy which duly examined with the original and on twenty-seven sheets of paper each stamped to the value of ten centavos of a Quetzal, of the present five year period, in the city of Guatemala this twentieth day of the month of June 1949 Witnessed twelve—Omit Between lines twenty seven read "*(signed)* F. Saavedra T. Secretary". Here is the seal which says "Secretariat of the Ministerio Publico". Republic of Guatemala Vo.Bo. (*Signed*) Licon M. Procurator General of the nation and Chief of the Ministerio Publico. Here is the seal which says "Ministerio Publico Republic of Guatemala examined by oa./Z.Y." Señor Ministro de Hacienda y Crédito Publico; (Minister of the Treasury).

- 43 I Karl Heinz Nottebohm Stoltz, thirty years of age, married, business man, Guatemalan, domiciled here and resident here, being able to

receive communications at the 8th Av. Sur, 31, in my capacity as mandatory for Don FEDERICO NOTTEBOHM WEBER, humbly declare ;

The 11th of July 1945, in accordance with the Emergency legislation Don FEDERICO NOTTEBOHM WEBER presented himself in the Ministerio Publico to oppose the expropriation of his property ; the proceedings No. 46 were opened in the said Ministry, and their progress has remained in suspense since the taking of the evidence without any final decision.

The 10th October 1939, i.e. before Guatemala declared war on Germany, Don Federico Nottebohm acquired the nationality and citizenship of Liechtenstein under the protection of Switzerland, registering this change of nationality before the Secretariat of Foreign Relations of Guatemala the 7th February 1940 and to this effect he showed the passport number 702 executed by the Governor of Vaduz Liechtenstein the 20th October 1939.

Throughout the war Señor Nottebohm remained in Guatemala, and, as he has shown fully, he did not co-operate in any way with the enemy, and always used his Liechtenstein nationality ; he has resided in Guatemala since 1905, and has his domicile here, as appears in his registration in the Ministry of Foreign Relations ; he formed his capital in this country and invested it here.

His case is included under clauses (a) and (c), of Arts. 7 and 27 of decree 630 of Congress, and for this reason he repeats his petition that he may be exempted from the expropriation, presented 11th June 1945, showing that besides proving that he did not do the acts referred to in Chapter 11 Title I he will prove the requirements established in Article 17 of decree 630 of Congress.

PETITION : 1st the antecedents are requested from the Ministerio 44 Publico.

2nd. Being included in the cases foreseen by Chapter III Title I Congress decree 630, that the admissibility of this petition be decreed and the expropriatory action be suspended.

3rd. Owing to the appearance of new facts, arising out of the publication of Congress decree No. 630, which it is necessary to prove, that the proceedings be opened for further proof for a period of five days before the appropriate hearings, admitting as proof : Public and authentic documents, information from the Authorities, Witnesses, Accounts, the facts of Proceedings No. 46 and the documents already now annexed.

4th. That in final Judgement it be declared that Don FEDERICO NOTTEBOHM WEBER should be exempt from expropriation of his property wherever situated and whether held in his own name, or in the name of any corporation of which he may form, or may have formed, part, or whatever other properties, rights, stocks, or shares.

5th. That a Certified copy of this Petition be given to me.

I make known that the Power of Attorney is annexed to the proceedings No. 46, of opposition, and I annex certificate of the antecedents of Don Federico issued by the Supreme Court of Justice and by the Auditoria de Guerra.

Guatemala 10th August 1949.

45 Señor Ministro de Relaciones Exteriores (Foreign Relations).

Palacio Nacional.

I, Karl Heinz Nottebohm Stoltz of full age, married, businessman, Guatemalan, domiciled in this department, being able to receive communications at the 8th Av. Sur. No. 31 respectfully REQUEST That a certificate be executed, at my expense, in DUPLICATE stating that Don FEDERICO NOTTEBOHM WEBER did not emigrate to enemy territory during the time of the war (starting from the first day of September 1939 (in full)).

46 Guatemala 11th August 1949.

Señor Ministro de Hacienda y Credito Publico :

I, KARL HEINZ NOTTEBOHM STOLTZ on my own behalf and as

Attorney of FEDERICO NOTTEBOHM WEBER, which representation I have

accredited before this Office humbly refer to the precision of Number three hundred and eighty-four (384) made by this Ministry given on the twenty-fourth of July of this year in which "the brothers Nottebohm" were given three days to execute a deed of conveyance of the right of ownership of the Estates "Morazan" and "Guatolon" in favour of the State, both properties being situated in Suchitepequez.

May I make clear that the relationship of Don Federico Nottebohm Weber and the undersigned is that of uncle and nephew and we are not brothers as stated in the above-mentioned order.

In addition as I the undersigned am of Guatemalan nationality and Don Federico is of Swiss nationality and there being no partnership formed between us for the ownership of the said estates the articles 7 and 18 of Congress Decree 630 on which the Ministerial order is based, cannot apply to us.

For these lawful reasons I come to interpose the defence of exemption from expropriatory proceedings in respect of the before-mentioned estates and I ask that this be declared admissible, that it be open to proof at the appropriate time and that final judgment be given.

In Guatemala, 22nd August 1950.

47

MINISTERIO PUBLICO

Guatemala C.A.

Judgement No. 89.

Guatemala 25th Aug. 1950.

SUBJECT: Erika Nottebohm in her own behalf and as attorney of Srita Carmen Nottebohm Stoltz, Karl Heinz Nottebohm Stoltz and Federico Nottebohm Weber, plead the DEFENCE OF RESTORATION to the resolution of this Ministry No. 169 dated 21st June of this year in which the House of "Nottebohm" was ordered to make over in writing to the State a frozen deposit held by the Bank of Guatemala amounting to Q.8,264.11. Ministerio de Hacienda in order No. 00529 dated 11th August present heard by the Ministerio Publico.

Señor Ministro,

In the matter of an expropriation subject to the special proceedings laid down by the regulations of the Law of Liquidation of Matters of War (Congress of the Republic, Decree 630) the opposition to the same must be prepared completely in conformity with paragraph 11 of Art. 43 of the Decree recited.

Based on the foregoing the Ministerio Publico is of the opinion that the DEFENCE OF RESTORATION pleaded by Señores: Erika Nottebohm de Von Der Goltz, in her own behalf and as Attorney of Señor Federico Nottebohm Weber, against the order of the Ministry of Hacienda y Crédito Publico No. 169 dated 21st June this year, and that the administrative order which caused it should be upheld.

Respectfully Augusto Charnaux Macdonald Specific Representative of the nation in German matters Sr. Ministro de Hacienda y Cr. Publico

Palacio Nacional.

CGL/06/10.MTB.

Señor Ministro de Hacienda y Crédito Publico.

48

SUBJECT Expropriatory Proceedings of the Estates "Morazan" and "Guataton" owned by Karl Heinz Nottebohm Stoltz and Federico Nottebohm Weber.

I, Karl Heinz Nottebohm, in the matters known, humbly appear in capacity of General Attorney of my uncle DON FEDERICO NOTTEBOHM WEBER and refer to the Order made by this Ministry Number 00671 dated 24th of August of this year, which admits the petition of exemption and orders the opposition proceedings to be open for proof.

PROOF ON BEHALF OF FEDERICO NOTTEBOHM WEBER.

There are in this Ministry the proceedings which were begun, concerning the expropriation of my principal's property, in the Ministerio Publico in 1945, marked with Number 46, in which are contained the following interrogatories and documents:

(1) Certificate of the Ministerio de Relaciones Exteriores concerning the registration of my principal as a domiciled alien of German nationality under Certificate No. 1968, Folio 1968 of book 20 dated 16th April 1928 as amended on 7th Feb. 1940 in as much as the registered persons citizenship of the Principality of Liechtenstein was recognized.

(2) Certificate of the Ministerio de Relaciones Exteriores containing the transcription of letters relating to the personal character of my principal which were signed by the Licenciado Don José Maria Reina Andrade, Don Carlos Herrera Dorion, Don Roberto Fischer, Doctor Don Jose Luis Asencio, Don Mario Willemsen, Mr. Arthur Neale and Mr. Daniel Orbaugh.

(3) First copy of the Judicial Record No. 147 in the Registry of the Supreme Court of Justice dated 15th July 1946 relating to the nationality of my principal declared by the Government of the Principality of Liechtenstein.

(4) Declaration of the Witnesses Doctor Don Leopoldo Aschkel and Don Carlos Walter Elmenhorst concerning personal knowledge supporting the good conduct of my principal.

(5) Certificate of copy of the Public document No. 54 authorized in this city by the Notary Don Federico Salazar Galica the 16th March

1939 in which is set out the General power of Attorney granted by Don Federico Nottebohm, in favour of Karl Heinz Nottebohm.

As proofs on the part of my principal I request that at my expense the above-named documents and interrogatories which as already stated are to be found in the proceedings pending in this Ministry Numbered 46, be certified in these present proceedings.

Guatemala, 6th September 1950.

49 No. 854 MINISTERIO DE HACIENDA Y CREDITO PUBLICO :

Guatemala, 12th September 1950 (in full).

SUBJECT : KARL HEINZ NOTTEBOHM STOLTZ IN LEGAL REPRESENTATION OF SEÑOR FEDERICO NOTTEBOHM WEBER REQUESTS THAT IN THE PRESENT EXPROPRIATORY PROCEEDINGS THERE MAY BE CERTIFIED AS PROOF THE FOLLOWING DOCUMENTS

- (a) CERTIFICATE OF THE MINISTERIO DE RELACIONES EXTERIORES
- (b) CERTIFICATE OF THE MINISTERIO DE RELACIONES EXTERIORES
- (c) FIRST COPY OF THE JUDICIAL RECORD No. 147.
- (d) DECLARATIONS OF THE WITNESSES DR. LEOPOLDO ASCHKEL AND CARLOS W. ELMENHORST,
- (e) CERTIFICATE OF COPY AND OF PUBLIC WRITING No. 54 IN WHICH IS CONTAINED THE GENERAL POWER OF ATTORNEY.

With modification to the Ministerio Publico let the documents be certified as requested, and if they bring together the requirements of the law let them be taken as proof on behalf of the presenter. Articles 104 and 105 of Administrative decree 1862—(Signed) A. PADILLA I.; F. BARILLAS C.—Here is the seal of the Ministry of Hacienda y Credito publico.

Annex 6

COPY ISSUED THE 24th NOVEMBER 1951 OF FILES OF THE GOVERNMENT OF GUATEMALA RELATING TO
Mr. FRIEDRICH NOTTEBOHM

- J "The undersigned, Senior Official of the Ministry of External Relations (Official Mayor del Ministerio de Relaciones Exteriores), CERTIFIES : That for the purpose he has had before him the petition of Mr. CARLOS NOTTEBOHM and other records, which literally read : 'Mr. Minister of External Relations (Señor Ministro de Relaciones Exteriores) : I, Carlos Nottebohm, whose particulars are known in the Ministry, as the proxy of Federico Nottebohm ; attentively beg : That certified copies should be issued to me in duplicate at my own cost and with notification to

the Public Ministry (Ministerio Público), of the file of documents existing in the Archive of the Ministry relating to the registration of Federico Nottebohm as a foreigner resident in Guatemala with the citizenship of Liechtenstein, the cancellation of that same registration and all the other decisions and rulings which comprise the file of documents and which must be copied in their entirety. Guatemala, 31st of October, 1951. (*Signed*) Illegible."

"19501—Ministry of External Relations (Ministerio de Relaciones Exteriores): Guatemala, fourteenth of November, one thousand nine hundred and fifty-one. With the knowledge of the Public Ministry (Ministerio Público) and at the cost of Mr. Carlos Nottebohm, issue the certified copy requested. (*Signatures*) A. Marroquín O.—Adrián Gil Pérez—There are the following stamps, which read: 'Ministry of External Relations (Ministerio de Relaciones Exteriores)—Republic of Guatemala, Central America.' 'Secretariat of the Public Ministry (Secretaría del Ministerio Público) Guatemala, Central America. Received on November 16th, 1951, at ... hours ... minutes. Identification, Control No. 7732.'"

"No. 2056.—Special Information Bureau for German Affairs (Consultoría Específica de Asuntos Alemanes) attached to the Public Ministry (Ministerio Público) Guatemala, Central America. Guatemala, 20th of November, 1951. Mr. Minister: The Public Ministry (Ministerio Público) has been informed that the certificate which Mr. Karl Heinz Nottebohm requests, as the proxy of Federico Nottebohm, in the petition addressed to that Ministry on the 31st of December last, will be issued to him; but in the same it must be stated that Mr. Federico Nottebohm is affected by the Law for the Settlement of War Affairs (Ley de la Liquidación de Asuntos de Guerra), not only by reason of his German nationality which he exhibited on the 7th of October, 1938, coming under clause (a) of the 7th Article of the said law, but also by reason of other causes based on other clauses of the same article. Attentively. (*Signed*) Alfonso Hernández Polanco Special Representative of the Nation for German Affairs (Representante Específico de la Nación en Asuntos Alemanes). Mr. Minister of External Relations (Sr. Ministro de Relaciones Exteriores), National Palace. There is a stamp which reads: 'Public Ministry (Ministerio Público) Republic of Guatemala.'"

"Subject: The Public Ministry (Ministerio Público) begs, that in the certificate to be issued to Mr. Carlos Nottebohm it be pointed out that Mr. Federico Nottebohm is subject to Decree 630 of the Congress of the Republic (Law for the Settlement of War Affairs—Ley de Liquidación de Asuntos de Guerra). 19706—Ministry of External Relations (Ministerio de Relaciones Exteriores): Guatemala, twenty-second of November, one thousand nine hundred and fifty-one. With reference to the request made by the Public Ministry (Ministerio Público), the Emergency Office (Oficina de Emergencia) is to point out the limits to which the said Institution (Institución) refers, and this information must be inserted into the certified copy which is to be issued. (*Signatures*) A. Marroquín O.—Adrián Gil Pérez. There is a stamp which reads: 'Ministry of External Relations (Ministerio de Relaciones Exteriores)—Republic of Guatemala, Central America.'"

- 5 "Memorandum of information for the Assistant Secretary (el señor Subsecretario). Mr. Assistant Secretary: In conformity with the preceding decision, taken with respect to the petition of Mr. Carlos Nottebohm, I have the honour to inform you that the Emergency Office (Oficina de Emergencia) is officially aware that Mr. Federico Nottebohm has an expropriation order (expediente de expropiación) in virtue of decree 630 of the Congress of the Republic, Guatemala, 23rd of November, 1951. Attentively. (*Signed*) José Humberto Rodas, Head of the Emergency Office and Secretary of the Law Department (Encargado de la Oficina de Emergencia y Secretario del Departamento Jurídico)."
- 6 "Secretariat of State in the Office of External Relations (Secretaría de Estado en el Despacho de Relaciones Exteriores). Federico Nottebohm attentively declares to the Minister that, having adopted the nationality of Liechtenstein, as the passport which I enclose demonstrates, I would be very grateful if you would order the respective change to be made in the Register of Foreign Nationality (Inscripción de Extranjería), which I am also pleased to enclose. I also beg you to order that the said documents be returned to me when the changes which I request have been effected. Thanking you in anticipation, I remain, your very attentive servant. (*Signed*) Illegible—Federico Nottebohm—Guatemala, 29th of January, 1940."
- 7 "174—Secretariat of External Relations (Secretaría de Relaciones Exteriores): Guatemala, thirty-first of January, one thousand nine hundred and forty. Make the requested changes, noting the number and other details of the passport. Leaving evidence (thereof), return the accompanying documents. (*Signatures*) Salazar.—C. Fernández Cordova. There is a stamp which reads: 'Secretariat of External Relations (Secretaría de Relaciones Exteriores)—Republic of Guatemala, Central America.'"
- 8 "Swiss Consulate (Consulat de Suisse) Guatemala FF. 1914. Guatemala, 25th of September, 1943. Mr. Minister: May I very respectfully inform Your Excellency that it has been brought to the notice of this Consulate that the identity documents issued by the Secretariat of External Relations (Secretaría de Relaciones Exteriores) in respect of the Civil Register (Registro Civil), to Mr. Federico Nottebohm, declare that he is a Swiss citizen of Liechtenstein. As you are aware, Liechtenstein is a Principality (Principado) and does not form part of the Swiss Confederation: it is only that its interests abroad are represented by the representatives of the Swiss Government. I would be grateful if Your Excellency would give me the information which I desire so that I might deal with the complaint presented to me. I take this opportunity of signing myself with all respect and esteem the Minister's most attentive servant. (*Signed*) Roberto Fischer, Consul. Most Excellent Minister of External Relations (Excmo. Señor Ministro de Relaciones Exteriores), Licenciado (Licenciado) Carlos Salazar, Guatemala."
- 9 "Memorandum, Passport Section (Sección de Pasaportes): 8th of October, 1943. Mr. Secretary: With reference to the note addressed to you by the Swiss Consul, Mr. Roberto Fischer, on the 25th of September last, I have the honour to inform you that according to the decision of the Secretariat of External Relations (Secretaría de RR EE) No. 174, dated the 31st of January, 1940, the change of nationality,

Swiss in place of German, desired by Mr. Federico Nottebohm, was authorized; and in the Registration Book (libro de inscripción) No. 20 folio 1968, appears the following note: "The bearer of this name (el titular) chose the nationality of Liechtenstein, according to passport No. 702 of the 20th of October, 1939, issued by the Governor of Vaduz." Respectfully. (*Signatures*) Illegible."

"Secretariat of External Relations, the Republic (Secretaría de Relaciones Exteriores República)—No. 14106 (542) 494-00-Guatemala, 18th of October, 1943. Mr. Consul: With reference to your kind note, number FF. 1914, of the 25th of September last, I am pleased to inform you that there is no indication whatsoever in the Registration Book (Libro de Inscripción) of this Secretariat (Secretaría) to the effect that Mr. Federico Nottebohm is a 'Swiss' citizen 'of Liechtenstein'. The said gentleman was entered as a German citizen, and, when he presented the necessary documents, a note was added to the effect that he is a citizen of Liechtenstein. In the certificate issued to him by the Civil Registry (Registro Civil) on the 1st of July, 1940, and in the note added to the Identity Document (Cédula de Vecindad), dated the 9th of February, 1940, it is only stated that he is a citizen of Liechtenstein, and Swiss citizenship is not referred to in any way whatsoever. I trust that this information will satisfy your esteemed wishes, and I am pleased to repeat that I am, with all respect, your attentive servant. (*Signed*) Carlos Salazar. -Mr. Roberto Fischer; Swiss Consul. Of the present city."

"Swiss Consulate Guatemala FF. 1937. Guatemala, 20th of October, 1943. Mr. Minister: I acknowledge the receipt of Your Excellency's kind note, number 14106, of the 18th of the present month, referring to the identity papers of Mr. Federico Nottebohm, a citizen of the County (Condado) of Liechtenstein. I wish to express to you, Mr. Minister, my warmest thanks for the information which you were pleased to give me, and I take the opportunity of signing myself, with the highest respect, your very attentive servant. (*Signed*) Roberto Fischer, Consul. Most Excellent Minister of External Relations (Excmo. Señor Ministro de Relaciones Exteriores), Licenciado (Licenciado) Carlos Salazar. Of this city."

"Guatemala, 22nd of January, 1946. Mr. Minister of External Relations (Señor Ministro de Relaciones Exteriores). National Palace. Mr. Minister: Nottebohm Brothers, in business in this capital city, domiciled in Eighth Avenue South (la 8a. Av. Sur), number 31, very attentively beg the Minister to be so good as to order that a certificate be issued to them to the effect that their partner, Mr. Federico Nottebohm Weber, is registered in the Ministry under your esteemed control as a citizen of the County (Condado) of Liechtenstein under the protection of the Swiss Republic. Thanking you in advance, we sign ourselves the most attentive servants of the Minister. (*Signature*) Illegible—Nottebohm Brothers."

"363—Ministry of External Relations (Ministerio de Relaciones Exteriores): Guatemala, twenty-third of January, one thousand nine hundred and forty-six. Inform the Department of Emigration and Immigration (Departamento de Migración). (*Signatures*) E. Silva Peña. — Adrián Gil Pérez."

- 13 "364—Ministry of External Relations (Ministerio de Relaciones Exteriores): Guatemala, twelfth of February, one thousand nine hundred and forty-six. In the light of the information of the Department of Emigration and Immigration (Departamento de Migración), issue the certified copy which is requested, giving previous notice to the Public Ministry (Ministerio Público). (*Signatures*) E. Silva Peña—Adrián Gil Pérez. There are stamps which read: 'Ministry of External Relations (Ministerio de Relaciones Exteriores)—Republic of Guatemala, Central America.' 'Secretariat of the Public Ministry (Secretaría del Ministerio Público) Guatemala Central America. Received on the 14th of February, 1946, at 11 hours 40 minutes. Identification number 924'"
- 14 "Guatemala, 15th of February, 1946. Mr. Minister: This Office has been informed that the certificate requested by Messrs. Nottebohm Brothers in the previous document, dated the 22nd of January of the present year, will be issued to them. With all respect and esteem, I am, your attentive servant. (*Signatures*) Marcial Méndez M., Procurator General of the Nation (Procurador General de la Nación), Head of the Public Ministry (Jefe del Ministerio Público). Mr. Minister of External Relations (Señor Ministro de Relaciones Exteriores). National Palace. There is a stamp which reads: 'Public Ministry (Ministerio Público) Republic of Guatemala.'—'Memorandum of the Department of Emigration and Immigration (Departamento de Migración). With reference to the petition of Messrs. Nottebohm Brothers for information as to whether Mr. Federico Nottebohm Weber is registered as a citizen of the County (Condado) of Liechtenstein, it is attentively pointed out that the registration of the said gentleman, to be found on folio 1968 of book No. 20 of the Department (Departamento) of Guatemala, is cancelled, with the following explanation: 'Cancelled in virtue of the reason explained in the note of this Office No. 16317, dated the 20th of December, 1944.' Guatemala, 26th of January, 1946. There is a stamp which reads: 'Ministry of External Relations (Ministerio de Relaciones Exteriores)—Department of Emigration and Immigration and Attestations (Depto. de Migración y Auténticas) Republic of Guatemala, Central America.'"
- 15 "Mr. Minister of External Relations (Señor Ministro de Relaciones Exteriores): I, Karl Heinz Nottebohm Stoltz, 36 years of age, a business man, married, a Guatemalan and from this district, giving as an address for the receipt of communications my office situated in Eighth Avenue South (la 8a. Av. Sur), number 31, of this city, respectfully appear and expound; That, as I prove with the enclosed affidavit marked with an 'A', I am the proxy in the fullest sense of my uncle Mr. Federico Nottebohm Weber, a document upon which I base myself when I ask that I be considered to possess the legal power of attorney which has been conferred upon me, begging that this be certified in these documents which I advance and that the documents be returned to me. Article 108 of decree 1862. Standing as the proxy of Mr. Federico Nottebohm Weber, I come before you in the most attentive manner to solicit a repeal of the administrative decision by virtue of which the registration of Mr. Federico Nottebohm Weber as a citizen of the County (Condado) of Liechtenstein is cancelled, a registration made on folio 1968 of book 20 of the Registration of Foreigners (Inscripción de Extranjeros) of the Department (Departamento) of Guatemala. I ask for the repeal of

the administrative decision which cancels the indicated registration, for I consider that the County (Condado) of Liechtenstein alone has legal competence to cancel the citizenship and the nationality of its citizens and nationals. As I prove in the public and attested document which I enclose marked with a 'B', the Government of Liechtenstein issued a certificate, dated the 6th of May last, indicating that Mr. Federico Nottebohm is a citizen and resident of Liechtenstein. It would, then, seem most strange if the citizenship of a foreigner were to be changed at the pleasure and whim of a Government completely alien to this question. What would the Government of Guatemala, and you in particular, Mr. Minister, think, if the Swiss Government were to cancel the citizenship of the Guatemalans registered as such and were to adjudge them a nationality different from that which legally is theirs? I am sure that the cancellation of the registration as a citizen of Liechtenstein made by the Ministry at the time when Licenciado (Lic.) Enrique Muñoz Meany was in charge of the Secretariat of External Relations (Secretaría de Relaciones Exteriores), was carried out in an inconsidered and hasty manner, and that the official who ordered such a cancellation did not consider the problems which his attitude might create for the Government of Guatemala. Guatemala might have been liable to diplomatic action with grave detriment to the prestige of the country and especially to the Secretariat of External Relations (Secretaría de Relaciones Exteriores). I am more than confident that you, Mr. Minister, would never have consented to, and much less ordered, such an arbitrary action, which, were it to stand, would revolutionize and destroy the fundamental bases of the sovereignty of States and hence the existence of international public law (derecho internacional público); Fortunately the Law is wise and long sighted, and the 7th Article of Decree 1881 allows a great margin of amplitude, authorizing the repeal of administrative decisions whenever they are not consented to by the interested parties, and since the cancellation to which I refer has not been notified to my mandator, and up to the present moment I, in my capacity as proxy of Mr. Federico Nottebohm, am aware of the cancellation of his registration as a citizen of Liechtenstein, basing myself on the Law which I have just quoted, I have come to ask: That you will be pleased to cancel the notice which indicates that the registration of Mr. Federico Nottebohm Weber as a citizen of the County (Condado) of Liechtenstein is cancelled, and that therefore the registration made on folio 1968 of book 20 of Domiciled Foreigners (Extranjeros Domiciliados) of this Department (Departamento) remains in force. I will be very grateful to you, Mr. Minister, if you would be so good as to decide the matter in my favour, for my petition is just and legal and I also ask that you be so good as to issue me a certificate relating to this petition and to your decision. I attentively assure you of my respect and esteem. Guatemala, 24th of July, 1946. Karl Heinz Nottebohm."

"Ministry of External Relations (Ministerio de Relaciones Exteriores): 16 Guatemala, first of August, one thousand nine hundred and forty-six. Inform the petitioner that entry number one thousand nine hundred and sixty-eight, folio 1968 of book 20 of Domiciled Foreigners (Extranjeros Domiciliados) is completely cancelled; also inform him of the dispositions of article 55 of the Law of Alienship (Ley de Extranjería);

and notify him that since Mr. Nottebohm is no longer a foreigner domiciled in this country, the establishment of his nationality is pointless, except as an incidental question. In consequence, refuse what has been petitioned, since there does not exist a decision allowing of appeal. E. Silva Peña.—A. Herbruger A.—There is a stamp which reads: 'Ministry of External Relations (Ministerio de Relaciones Exteriores)—Republic of Guatemala, Central America.'

- 17 "Mr. Karl Nottebohm was notified of the preceding decision, and, having been informed and being in accord, he signed. Certified by me. Alberto Rossell—30[8]46. Karl Heinz Nottebohm."

"Number fifty-four.—In the city of Guatemala, on the seventeenth of March, one thousand nine hundred and thirty-nine, before me, the notary, and the witnesses, competent according to the law, known to me and residents of this city, which I certify, Mrs. Elisa Borges de Alvarez and Mr. Ramón Alvarez, appeared Mr. Federico Nottebohm Weber, fifty-eight years of age, a bachelor, a business man, German, who speaks and writes Spanish, who is a resident of this city and is registered in the Civil Register (Registro Civil) of this capital city as a resident foreigner, according to a certificate of the said office which I certify to have had before me. I certify that I know him, that I have had before me his travel permit (boleto de vialidad), corresponding to the present half-year, that he states that he is in enjoyment of his civil rights, and that, proceeding on his own behalf, he stated: that he hereby confers his general, full, complete and sufficient power of attorney upon Mr. Karl Heinz Nottebohm Stoltz, a resident of this city, so that he may represent him in any matter in which the grantor might have interest, whether judicial, extra-judicial, commercial, administrative or of voluntary jurisdiction. Wherefore, the proxy will have all the general powers of the mandate both for judicial powers of attorney and for the following special powers of attorney; to buy, sell, mortgage, compound, lease and dispose in any way of the property of the mandator; to ratify all kinds of contracts, to renew them, to draw up, endorse, accept and protest bills of exchange, cheques, I.O.U.s, drafts, and any other credit document; to grant any kind of deed whatsoever; to be present at meetings of creditors (juntas de acreedores y de concursos), and at any other kind of meetings, both with authority to speak and with a vote; to approve liquidations and accounts, to receive sums of money, to remit debts, to transfer any certificate or bond (título), to lend sureties; to appear before any judicial or administrative authority; to originate and answer questions of interrogatories; to submit any matter to the decisions of arbitrators, juries (juris) or referees, to nominate and propose them; to recognize signatures; to denounce offences and to accuse criminally; to extend jurisdiction; to waive judgments, claims, appeals, incidental judgments, exceptions and recusations, as well as to renounce them; to carry out transactions and agreements with relation to any litigation; to remit obligations and to grant respites and acquittances; to apply for and to accept adjudications of goods in requital; to confer special powers and to revoke them and to substitute this power of attorney in whole or in part, reserving or not reserving the exercise of it, and to revoke the substitutions. I read what had been written to the mandator in the presence of the witnesses referred to, and informed of its contents and

legal effects, he approved it, ratified it and signs. Certified by me, Federico Nottebohm. Elisa B. widow of (v. de) Alvarez.—Ramón Alvarez.—In my presence: Fed. Salazar. This is the original affidavit, which, after collation and so that I may give it to the proxy, I seal and sign in the place and on the date of the granting on this single sheet. Pco. Salazar.—There is a stamp which reads: Federico Salazar Lawyer and Notary. Notice: the present written affidavit was registered under series number 8126, folio 290—Book four—of the Register of Mandates (Registro de Mandatos) existing for that purpose in the General Archive of Protocols (Archivo General de Protocolos).—Guatemala, twenty-first of March, one thousand nine hundred and thirty-nine. (*Signature*) Illegible. There is a stamp which reads: 'General Archive of Protocols (Archivo General de Protocolos) Guatemala.'

"The undersigned Lawyer and Notary, and the present Secretary 18 of the Supreme Court of Justice (Secretario de la Corte Suprema de Justicia), CERTIFIES: that, for the purpose, he has had before him the document, its provision and embodiment in protocol which literally read: 'Mr. President of the Judicial Power (Señor Presidente del Poder Judicial): I, Karl Heinz Nottebohm Stoltz, 36 years of age, married, a business man, a Guatemalan and resident in this district, giving as my address for the receipt of communications the office of my Chief Lawyer (Abogado Director), Licenciado (Lic.) Carlos Rafael López Estrada, situated on Fourth Avenue South (la 4a. Avenida Sur), number 20, of this city, respectfully present myself to request: That according to the formalities of the law, there be issued to me four attested copies of the instrument which was embodied in protocol in the Register (Registro) belonging to the Judicial Body (Organismo Judicial), and which bears the No. 147, and which refers to the citizenship appertaining to Mr. Federico Nottebohm. Will Mr. President (el señor Presidente) please determine in conformity with this request. Article 279 of decree 2009 and 104 of decree 1862. Guatemala, 16th of July, 1946 (*Signed*) Karl Heinz Nottebohm S.—Assisting: (*Signed*) C. R. López E. Stamp of the Lawyer.'

"President of the Judicial Body (Presidente del Organismo Judicial): 19 Guatemala, sixteenth of July, one thousand nine hundred and forty-six.—At the cost of the interested party, the Secretary of this Body (Organismo) may issue the four attested copies requested.—Articles 13 governmental Decree number 2374 and 3 legislative decree number 2556. (*Signatures*) Prado.—Juan Fernández C."

"Number one hundred and forty-seven: In the city of Guatemala, 20 on the fifteenth day of the month of July, one thousand nine hundred and forty-six, the undersigned, Secretary of the Supreme Court of Justice (Secretario de la Corte Suprema de Justicia), proceeds to copy the following documents in virtue of what was ordered in the provision of the date above indicated. The undersigned Sworn Translator (Traductor Jurado) of German-Spanish certifies: that he has had before him a document drawn up in that language, which, translated into Spanish, reads: 'Certificate—Mr. Federico Nottebohm, in business in Guatemala, born on the 16th of September, eighteen hundred and eighty-one (1881), possesses, since the 13 10 1939 the citizenship of Liechtenstein and is a citizen of the Liechtenstein community, Mauren.—Vaduz, 6th of May, 1946—Government of the Principality (Gobierno Principesco):

(Signed) Frick.—(Stamps)—Government of the Principality of Liechtenstein (Gobierno del Principado de Liechtenstein).—And, as an affidavit of the truth of this, I issue, sign and stamp the present document in Guatemala on the 12th of July, 1946. (Signed) Carlos Dubois.—There is a stamp.—No. 218.—Fees paid 3.—The undersigned Guatemalan Consul certifies: the authenticity of the preceding signature which reads:—Frick—by the authority Regierung d. Fürstentums Liechtenstein.—Zurich, 18th of May, 1946.—The Consul (Signed) R. Bracher.—There is a stamp.—The Assistant Secretary of External Relations (Subsecretario de Relaciones Exteriores), CERTIFIES: that the signature of Mr. Licenciado (Licenciado) René Bracher, who on the date of signing held the post of Guatemalan Consul in Zürich, Switzerland, is authentic.—Guatemala, 11th of July, 1946.—(Signed) Art. Herbruger A.—Note: The Ministry of External Relations (Ministerio de Relaciones Exteriores) does not assume any responsibility whatsoever for the contents of this document. There is a seal and the necessary stamps.' ”

- 21 “Mr. President of the Judicial Power (Señor Presidente del Poder Judicial): I, Karl Heinz Nottebohm, 36 years of age, married, a business man, a Guatemalan and resident in this district, giving as my address for the receipt of communications the office of my Chief Lawyer (Abogado Director) Licenciado (Licenciado) Carlos Rafael López Estrada, situated in Fourth Avenue South (la 4a. Avenida Sur), number 20, of this city, respectfully appear and expound: that in conformity with clause (g) of Article 4 of decree 1862, I have come attentively to request that you be pleased to give legal sanction to the document which I have the pleasure of attaching and which is duly authenticated by the Secretariat of External Relations (Secretaría de Relaciones Exteriores), and translated from German into the official language of the republic, Guatemala, 13th of July, 1946. (Signed) Karl Heinz Nottebohm.—Assisting: (Signed) C. R. López E.—There is a Lawyer and Notary's stamp.”
- 22 “Presidency of the Judicial Body (Presidencia del Organismo Judicial): Guatemala, fifteenth of July, one thousand nine hundred and forty-six.—Give the legal sanction requested to the enclosed certificate referring to the citizenship of Mr. Federico Nottebohm, issued in Vaduz by the representative of the Government of the Principality of Liechtenstein (Gobierno del Principado de Liechtenstein) who signs himself Frick, and dated the sixth of May of the present year.—Issue the corresponding Notarial certificate.—Article 4 of the governmental decree number 1862.—(Signatures) Prado.—Juan Fernández C.—In my presence: Juan Fernández C.—This is a Second Affidavit which has been duly collated with its original, and in order to hand it over to Mr. Karl Heinz Nottebohm Stoltz, I issue it in two effective sheets, in the city of Guatemala, on the sixteenth day of the month of July, one thousand nine hundred and forty-six.—The first sheet is to the value of one *quetzal* and bears the number A-932049—Registered 032171 and the present sheet to the value of five *centavos*, bearing the number A-2586639, Registered 2587164, both of the present quinquennium. (Signed) Juan Fernández C. There is a stamp which reads: ‘Secretariat of the Supreme Court of Justice—Judicial Body (Secretaría de la Corte Suprema de Justicia—Organismo Judicial) Guatemala, Central America.’ ”
- 23 “Mr. Minister of External Relations (Señor Ministro de Relaciones Exteriores), National Palace:—I, Karl Heinz Nottebohm Stoltz, whose

particulars are known in your Office, attentively refer to my petition dated the 24th of July, 1946—on the subject of the cancellation of the registration of the nationality of Mr. Federico Nottebohm—in which I requested that, at my own cost, I be given a certified copy of the petition and of your decision and further that the power of attorney which I showed be returned to me. To-day I have been informed of the decision but the power of attorney has not yet been returned to me nor has the certified copy of the petition and of the decision been delivered to me. I beg once more attentively to request you, Mr. Minister, that you be pleased to order that the certificate above indicated be issued to me at my own cost, and that the power of attorney be returned to me. I attentively assure you of my respect and esteem. Guatemala, 30th of August, 1946. Karl Heinz Nottebohm."

"3566—Ministry of External Relations (Ministerio de Relaciones Exteriores): Guatemala, fourth of September, one thousand nine hundred and forty-six. At the cost of the interested party, and with the knowledge of the Public Ministry (Ministerio Público), return the requested document, leaving evidence of that which has been certified in the file of documents, and issue the requested certificate. (*Signatures*) A. Herbruger A.—Adrián Gil Pérez.—There is a stamp which reads: 'Ministry of External Relations (Ministerio de Relaciones Exteriores)—Republic of Guatemala, Central America.'"

"Secretariat of the Public Ministry (Secretaría del Ministerio Público), Guatemala, Central America. Received on the 6th of September, 1946, at 17 hours—minutes. Identification—6678—Guatemala, 7th of 1946. Mr. Minister: This Office has been informed that the certificate which Mr. Karl Heinz Nottebohm Stoltz requests in the preceding document dated the 30th of August last will be issued to him. With all respect and esteem, I am your attentive servant. By order of the Procurator General (Señor Procurador General) (*Signed*) Illegible. Secretary (Secretario). Mr. Minister of External Relations (Señor Ministro de Relaciones Exteriores), National Palace. There is the stamp of the Public Ministry (Ministerio Público)."

And for delivery to the interested party for the appropriate legal uses, he issues the present certificate which has been collated with its original, divided into nine effective sheets, with the following series numbers, the first No. B 9977257, the second No. B 9977258, the third No. B 9977259, the fourth No. B 9977260, the fifth No. B 9977261, the sixth No. B 9977262, the seventh No. B 9977263, the eighth No. B 9977264 and the ninth, which is the present sheet, in the city of Guatemala, on the twenty-fourth day of the month of November, one thousand nine hundred and fifty-one. FEES: ONE QUETZAL EIGHTY CENTAVOS.—(*Signed*) Adrián Gil Pérez.

Beside this signature there is a rubber stamp which reads: "Ministry of External Relations (Ministerio de Relaciones Exteriores), Republic of Guatemala, Central America."

Approved: (*Signed*) Illegible.

COLLATED: JEL/JHR.
EMERGENCY.

Annex 7

COPY ISSUED THE 21st FEBRUARY 1946 OF FILES OF THE
GOVERNMENT OF GUATEMALA RELATING TO
Mr. FRIEDRICH NOTTEBOHM

"The undersigned Senior Official of the Ministry of External Relations (Oficial Mayor del Ministerio de Relaciones Exteriores), CERTIFIES: that, for the requested purpose, he has had before him the document, provisions, report and notification to the Public Ministry (Ministerio Público), which literally read: 'Guatemala, 22nd of January, 1946.—Mr. Minister of External Relations (Señor Ministro de Relaciones Exteriores).—National Palace.—Mr. Minister: Nottebohm Brothers, in business in the commercial centre, domiciled in Eighth Avenue South (la 8a. Av. Sur) No. 31, very attentively beg the Minister to be so good as to order that a certificate be issued to them to the effect that their partner, Mr. Federico Nottebohm Weber, is registered in the Ministry under your esteemed control as a citizen of the County (Condado) of Liechtenstein under the protection of the Swiss Republic.—Thanking you in anticipation, we sign ourselves the most attentive servants of the Minister. (Signed)—signature illegible.—There is a stamp which reads 'Nottebohm Brothers.'"

"MINISTRY OF EXTERNAL RELATIONS (MINISTERIO DE RELACIONES EXTERIORES): Guatemala, twenty-third of January, one thousand nine hundred and forty-six. Inform the Department of Emigration and Immigration (Departamento de Migración). (Signatures) E. Silva Peña—Adrián Gil Pérez, Senior Official (Oficial Mayor).—There is a stamp which reads: 'Ministry of External Relations (Ministerio de Relaciones Exteriores)—Republic of Guatemala, Central America.'"

"MEMORANDUM OF THE DEPARTMENT OF EMIGRATION AND IMMIGRATION (DEPARTAMENTO DE MIGRACIÓN).—With reference to the petition of Messrs. Nottebohm Brothers for information as to whether Mr. FEDERICO NOTTEBOHM WEBER is registered as a citizen of the County (Condado) of Liechtenstein, it is attentively stated that the registration of the said gentleman, to be found on folio 1968 of Book No. 20 of the Department (Departamento) of Guatemala, is cancelled, with the following explanation: 'Cancelled in virtue of the reason explained in the note of this Office, No. 16317, dated the 20th of December, 1944.—Guatemala, 26th of January, 1946.—mgr/.'—There is a stamp which reads: 'Ministry of External Relations (Ministerio de Relaciones Exteriores)—Republic of Guatemala, Central America. Department of Emigration, Immigration and Attestations (Departamento de Migración y Auténticas).'"

"MINISTRY OF EXTERNAL RELATIONS (MINISTERIO DE RELACIONES EXTERIORES): Guatemala, twelfth of February, one thousand nine hundred and forty-six. In the light of the report from the Department of Emigration and Immigration (Departamento de Migración), issue the certified copy which is requested, giving previous notice to the Public Ministry (Ministerio Público). (Signatures) E. Silva Peña—Adrián Gil Pérez, Senior Official (Oficial Mayor). There is a stamp which reads:

'Ministry of External Relations (Ministerio de Relaciones Exteriores)—
Republic of Guatemala, Central America.' "

"Secretariat of the Public Ministry (Secretaría del Ministerio Público)
—Guatemala, Central America. Received on the 14th of February,
1946, at 11 hours 40 minutes, identification number 924.—Guatemala,
15th of February, 1946. Mr. Minister: This Office has been informed
that the certificate requested by Messrs. Nottebohm Brothers in the
previous document, dated the 22nd of January of the present year,
will be issued to them. With all respect and esteem, I am your attentive
servant.—There is a stamp which reads: 'Public Ministry (Ministerio
Público)—Republic of Guatemala'.—Mr. Minister of External Relations
(Señor Ministro de Relaciones Exteriores).—National Palace."

And at the request of the interested party, he issues the present
certificate, duly collated with the originals, and set out on two sheets
of paper each stamped to the value of ten *centavos de quetzal*—of the
present quinquennium—the first with the Registered No. 3569904—
three million five hundred and sixty-nine thousand nine hundred and
four, in Guatemala, on the twenty-first day of the month of February,
one thousand nine hundred and forty-six. Tdo: twenty-third of—
Omit—E. L.: of the year—one—Read.

(Signed) Adrián Gil Pérez.

Approved: (Signed) Illegible.

Beside this signature there is the rubber stamp of the Ministry of
External Relations (Ministerio de Relaciones Exteriores), Republic of
Guatemala, Central America.

Fees: *Quetzales* 0.40.
Collated: anm/jal.

Below this is the certificate of the Swiss Consul, typewritten, in
German, signed and stamped.

Annex 8

GOVERNMENTAL DECREE NUMBER 2601 OF THE
9th OCTOBER 1941

JORGE UBICO, PRESIDENT OF THE REPUBLIC,

CONSIDERING:

That by the principles of democratic conviction which the people
and Government of Guatemala profess, and in fulfilment of inescapable
obligations contracted in various conferences and public agreements
between the nations of America, it is the duty of the Government to
decree the provisions which may be necessary to make effective inter-
national co-operation and defence;

CONSIDERING :

That, as far as it is concerned, it must at the same time make the international effects of the Proclamation (Proclama) of the 17th of July, 1941, issued by the Most Excellent President of the United States of America compatible with the economic interests of the nation which are profoundly affected by the inclusion in the promulgated list (*lista proclamada*) of private persons or corporations who are proprietors of coffee estates, a product which constitutes the main wealth of the country.

CONSIDERING :

That as a result of arrangements concluded in a wide and mutual spirit of cordial friendship, there is agreement on the part of the Government of the United States of America to allow the importation into that country of coffee which comes from estates whose proprietors are included in the promulgated list (*lista proclamada*), provided that they keep the substance of the intentions which inspired its proclamation ;

THEREFORE :

Invoking the powers conferred upon him by clause 23 of Article 77 of the Constitution of the Republic,

DECREES :

Article one.—All private persons or corporations who, being proprietors, lessees or owners of coffee estates, are included in the promulgated list (*lista proclamada*) and desire to export the fruits, shall hand over their harvests to the Central Bank of Guatemala immediately they are gathered and are in an exportable condition.

Article two.—The Central Bank of Guatemala, duly authorized by the central board of shareholders and by the Government of the Republic, will act as depositary for the coffee harvests and their value ; it being the charge of the proprietors and owners to hand over the fruits, by means of certificates stating the quality, quantity and specifications of each delivery of exportable coffee.

Article three.—The Central Bank of Guatemala will act in its own name and on its own account to arrange the exportation of the coffee which it has received in conformity with the foregoing articles ; and it will be its duty to fulfil all the obligations imposed by law on depositaries.

Article four.—The Central Bank of Guatemala, in addition to the obligations incumbent upon it as depositary will be charged with a rigorous control in respect of the coffee which it receives, exports and sells on account of deposits ; and the product of the sale, in each case, will be applied in the following manner : (1) To cover fiscal dues which are pending ; (2) To pay monthly to the administration of each estate the sum absolutely necessary, in the judgment of its technicians and in the opinion of the Board of Assessors of the Central Coffee Bureau (*Junta Asesora de la Oficina Central del Café*), for the maintenance of the estate in a state of production ; (3) To provide the proprietor of the coffee sold, should he lack other income, with the sums strictly

necessary for his sustenance and that of his family ; (4) To pay the interest and amortizations on pending debts ; (5) To pay debts whose term has expired ; (6) If there is any residue of the price obtained, this will be frozen in the funds of the Central Bank of Guatemala and that residue may not be disposed of until the end of the war, provided that it shall not be subject to charge or encumbrance on account of other responsibilities.

Article five.—Funds destined for the payment of the debts referred to in clause (5) of the foregoing article shall also be frozen in the Central Bank of Guatemala, when the respective creditors are included in the promulgated list (*lista proclamada*).

Article six.—Exporters of coffee who are not on the promulgated list (*lista proclamada*) but who must effect payment with the product of the coffee to third parties who are on the promulgated list (*lista proclamada*), are obliged, by the present law, to notify to the Board of Assessors of the Central Coffee Bureau (*Junta Asesora de la Oficina Central del Café*) the existence of such an obligation, so that the payment may be made in the Central Bank of Guatemala on account of the debtor and the Bank will receive the payment in the name of the blocked creditor (*acreedor bloqueado*), keeping the funds frozen until the end of the war. The creditor is obliged to give an acquittance to the debtor and to cancel the mortgages guaranteeing the credit thus discharged.

Article seven.—For the authorization of depreciation allowances, or for the payment of renewal expenses with the funds of the harvests, to private persons or corporations included in the promulgated list (*lista proclamada*), the Central Bank must hear beforehand the opinion of the Board of Assessors of the Central Coffee Bureau (*Junta Asesora de la Oficina Central del Café*) which will inform and advise, taking into account in each case the average of renewal expenses of previous years, and the existing and effective needs of the estate.

Article eight.—Both for the purpose of the foregoing article and for the control of the application of the other provisions of the present law, the Board of Assessors of the Central Coffee Bureau (*Junta Asesora de la Oficina Central del Café*) will appoint inspectors to visit the estates, to examine the state of the work in progress and the application of the funds to their appointed purpose. The Board of Assessors (*Junta Asesora*) will report to the Central Bank, before deciding, on the supply of renewal funds.

Article nine.—The provisions of the present law will apply not only to persons who are at present included in the promulgated list (*lista proclamada*), but also to their agents, employees or representatives who perform or endeavour to perform any act prejudicial to the defence of democratic institutions.

Account will be given of the present decree to the National Assembly (*Asamblea Nacional*) in its next sessions.

Given in Government House : in Guatemala, on the ninth day of the month of October, one thousand nine hundred and forty-one.

JORGE UBICO.—The Secretary of State in the Office of External Relations (*Secretario de Estado en el Despacho de Relaciones Exter-*

iores), CARLOS SALAZAR.—The Secretary of State in the Office of the Treasury and Public Credit (Secretario de Estado en el Despacho de Hacienda y Crédito Público), J. GONZALEZ CAMPO.

Annex 9

GOVERNMENTAL DECREE NUMBER 2655 OF THE
23rd DECEMBER 1941

JORGE UBICO, PRESIDENT OF THE REPUBLIC,

CONSIDERING :

That the state of war in which the nation finds itself with Germany, Japan and Italy makes necessary the adoption of all those provisions which tend to the defence of the country, in consonance with the solidarity compacted in inter-American conferences and the Declaration of Panama ;

CONSIDERING :

That for the due application of such measures it is convenient to unify in one single body all the provisions which have been issued by the Executive Power (Poder Ejecutivo) ;

THEREFORE :

Invoking the powers conferred upon him by clause 23 of Article 77 of the Constitution and Articles 2 of legislative decree number 2563 and 2 of legislative decree number 2564,

DECREES :

The following EMERGENCY LAW (LEY DE EMERGENCIA).

CHAPTER I

RESTRICTIONS TO WHICH NATIONALS OF COUNTRIES AT WAR WITH
GUATEMALA ARE SUBJECT

Article 1.—In conformity with the law which controls certain constitutional guarantees in respect of nationals of the countries at war with the Republic, the persons indicated are prohibited from : (a) Residing or remaining, without permission from the competent military authorities, in ports, on the perimeters of airports or landing grounds, in the immediate vicinity of barracks, railway stations, large petrol stores, main cross-roads, bridges, wireless telegraphy towers, points of observation and military signals, and, in general, in every place considered as of strategic value for national defence ; (b) Entering places or zones of military strategy ; (c) Walking on or at the edge of railway lines or travelling on military roads ; (d) Having in their power firearms, steel arms whose use is prohibited, explosives, deleterious gases and gas-masks, and, in general, any object or implement which may be

directed to warlike purposes ; (e) Having, using or transferring the use or ownership of implements or apparatus of radio transmission or which might serve for such a purpose or for the reception of any kind of signal sent by radio or by light ; (f) Having, using or transferring the use or ownership of codes or keys of secret communication, plans or sketches of fortresses, barracks, stations or any other military post ; (g) Travelling in aircraft, entering or leaving the country or travelling between towns or regions in different administrative areas (departamentos), without first obtaining special permission from the Police headquarters in the capital or in the chief towns of the respective administrative areas (departamentales). Persons affected by the present law and vehicles belonging to them may not travel in the Republic without the passport or corresponding permit issued by the Police authorities ; (h) Changing their residence or domicile without notice to and prior authorization from the respective Police offices.

Article 2.—Railway, aviation, lorry, truck or any other kind of transport company operating between administrative areas (interdepartamentales), must abstain from selling passages to, and from transporting the persons affected by the present law, unless these show their special travel permit and their Identity Document (Cédula de Vecindad).

Article 3.—Nationals of the countries at war with the Republic shall not be allowed to make radiotelephone or telephone calls from one administrative area to another (interdepartamentales), or internationally, unless the General Directorate of Communications (Dirección General de Comunicaciones), after learning the motive, circumstances and name and conditions of the callers, concedes his express authorization in each specific case. The said communications may only be made in Spanish, under the strict control of the General Directorate (Dirección General).

Article 4.—The Executive Power, if it thinks it relevant to the security of the Republic, shall be able to prevent nationals of the countries at war with Guatemala, when these are suspected of subversive activities or of collaborating in favour of the anti-American cause, from using motor or animal-drawn vehicles and radio receivers or electrical or photographic implements.

Article 5.—The Executive Power shall be able to order the control, rationing or seizure of petrol and lubricants destined for the consumption of, or found in the possession of persons to whom the preceding article refers.

Article 6.—Nationals of the countries at war with the Republic shall not be allowed to hold public gatherings, meetings or demonstrations, to use badges or flags, uniforms or articles of uniform, not to lend any direct or indirect support in favour of persons, political bodies or those suspected of activities which are subversive or contrary to the democratic cause which America defends.

Article 7.—Native or naturalized Guatemalans who perform acts contrary to the security and defence of the nation, or who tend to favour the cause of the nations at war with Guatemala or who collaborate in any way against the interests and rights of the nation, will

be tried as traitors to the national cause and punished in conformity with the military laws of the Republic.

Article 8.—The activities are prohibited of schools, academies or any other centre of teaching or the divulgation of ideas; public libraries, clubs (clubes o casinos), sporting centres or groups, or associations of any other kind or nature, whenever such bodies are organized or composed, directed, managed or financed by nationals of the countries at war with the Republic or by those who support anti-democratic doctrines.

CHAPTER II

RESTRICTIONS OF GENERAL CHARACTER

Article 9.—It is prohibited to publish or divulge news, information and facts concerning the location of landing places and conditions of the air, naval or military bases of the Republic, as well as any other fact relating to them.

Article 10.—It is forbidden to publish in the information relating to the movement of passengers, the place from which those who enter have come or the destination of those who leave. Neither will publication be allowed of movements of troops, merchant or war shipping, military aircraft or armaments, nor the names of Army commanders, whether they be natives of Guatemala or of nations which support the same cause as Guatemala.

Article 11.—Acts of sabotage or of espionage, as well as the divulgation of news or false alarms, which have as their object the breaking of morale or the introduction of disorder into towns, will be tried and punished in accordance with the military and criminal laws of the nation.

Article 12.—Persons who denigrate publicly, in deed or in word, the democratic institutions whose principles are professed by the Republic, will be tried and punished as guilty of an offence against social institutions.

Article 13.—The Government shall be able to order the internment of nationals of the countries with which the Republic is at war, whenever their attitude suggests that they are engaging in activities which are subversive or dangerous to the security of the nation and of its institutions.—Native or naturalized Guatemalans who are found in the same suspicious circumstances will be submitted to a judicial enquiry before the competent authorities.

CHAPTER III

RESTRICTIONS OF AN ECONOMIC CHARACTER

Article 14.—All commercial and financial operations are absolutely forbidden between Guatemala and the countries which are in a state of war with her.

Article 15.—Commercial and financial operations are also forbidden in the country in which blocked nationals (nacionales bloqueados) of the said nations may have interest, be they private persons or corporations, except in the case of prior permission or government licence, which

will not be given without previous knowledge and justification of the case. Those transactions are also prohibited in which intervene or have an interest private persons or corporations controlled ostensibly by associations or bodies resident abroad, serving the interests of the countries which are in a state of war with Guatemala.

Article 16.—In the Republic are forbidden commercial and financial operations, and all business, contract or mercantile traffic in which are interested persons, bodies or national or foreign associations who hinder or commit acts hostile to the defence of the Western Hemisphere.

Article 17.—It is forbidden for the banks operating in the Republic to effect payments, transfers or withdrawals of funds if any of the countries with whom Guatemala is in a state of war, or nationals of the said countries, had interest in such operations, except in the case of authorization issued by the Government, through the medium of the respective Secretariat (Secretaría).

Article 18.—Deposits, credit balances and current accounts of nationals of the countries at war with Guatemala are frozen and immobilized in the banks of the Republic, as are those of persons who figure in the lists promulgated (listas proclamadas) by the United States of North America, save in case of exception foreseen by the law.—With the exception of the cases foreseen in governmental decrees numbers 2601 and 2628 and of those authorized by the present law, the banks of the country are forbidden to agree, carry out or realize any business or financial operation with nationals of the countries at war with the Republic and with persons shown in the promulgated lists (listas proclamadas).—The Secretariat of External Relations (Secretaría de Relaciones Exteriores) will have published the promulgated lists (listas proclamadas), in the Official Journal (Diario Oficial).

Article 19.—Except as laid down in Articles 12, 13 and 25 of governmental decree number 2628, the law does not exempt the debtor from the obligations contracted with the creditor, and vice versa, even when one or the other are nationals of the countries at war with the Republic, or even when they figure in the promulgated lists (listas proclamadas), unless, for reasons of national defence, the Executive Power order, in each specific case, the blocking (bloqueo) or sequestration of the sums which the debtor has to hand over or pay.

Article 20.—"Blocked nationals" (nacionales bloqueados) and persons or bodies which figure on the promulgated lists (listas proclamadas) may continue to exercise their habitual and ordinary occupations in civil life, provided that they do not contravene the laws, regulations or ordinances of the Republic or compromise with their activities the security of the nation or the integrity of its institutions.—The State, when by virtue of circumstances it shall deem it convenient and necessary, may order the supervision and even the sequestration and direct control of any commercial, industrial or agricultural undertaking, belonging to or administered by blocked nationals (nacionales bloqueados) or those included in the promulgated lists (listas proclamadas). It may also liquidate those undertakings and contracts or stop any mercantile or financial operation which it considers prejudicial or dangerous to the interests of national defence or inter-American co-operation.

Article 21.—The banks of the Republic will honour cheques or letters of credit of blocked nationals (*nacionales bloqueados*) and invoices for or in favour of persons or bodies included in the promulgated lists (*listas proclamadas*), in the following cases: (*a*) Whenever the cheques are made out individually in favour of employees, operators or clerks of commercial, industrial or agricultural enterprises belonging to blocked nationals (*nacionales bloqueados*) or to persons included in the promulgated lists (*listas proclamadas*), provided that the drawer proves that he has no funds other than those frozen in the bank; that the sums stated on the respective orders to pay are in proportion with the wages, salaries or honoraria of persons of his class and, in no case, greater than two hundred *quetzales* per month in favour of the same individual; (*b*) Whenever the business effects are drawn in payment of obligations embodied in deeds contracted three months, at least, before the date of the declaration of the state of war. If the business effects described are drawn in favour of any of the “blocked nationals” (*nacionales bloqueados*) or of persons who figure on the promulgated lists (*listas proclamadas*) issued by the United States of North America, the sum will remain frozen in the same bank, which must hand over the respective vouchers to the drawer; (*c*) Whenever the cheques have been made out at least three months before the date on which the state of war was declared in Guatemala to cover obligations of civil, commercial or financial order duly proved, in favour of a person or body resident in the territory of the Republic or in favour of any Guatemalan or national of a friendly country, also resident in a friendly country, whose conduct is not suspicious, provided that the cheques drawn do not exceed the sum of two hundred *quetzales*; (*d*) Whenever the cheques are drawn in favour of Guatemalans or nationals of a friendly country, to pay obligations respecting mortgages or securities constituted three months at least before the date of the declaration of war between Guatemala and the States of which mention is made; (*e*) Whenever the quantities drawn in favour of the same drawer do not exceed the sums destined to cover monthly the minimum expenses of subsistence, in the judgement of the manager of the drawn bank, who must hear the opinion of the respective Secretariat of State (*Secretaría de Estado*). Payment of cheques to which the present clause refers will be refused when the drawer can count ostensibly upon sufficient income or upon other adequate means of living.

Article 22.—Persons or bodies, whatever their nationality may be, who cover with their name, or with their signature any financial or commercial operations of import or export by “blocked nationals” (*nacionales bloqueados*), will also be included in the effects of the present law and considered as such blocked nationals (*nacionales bloqueados*) without prejudice to the fact that if the Executive Power thinks it relevant, it may proceed to the confiscation of the articles making up the traffic.

Article 23.—No operation will be entered on the Registers of Immovable Property of the Republic which has to do with immovable properties or real estate dues entered in the name of “blocked nationals” (*nacionales bloqueados*), or which figure in the name of collective societies or sleeping partnerships whose members or managers can be so described. Exception is made in the following cases: (*a*) When the immovable property or real estate is transferred by inheritance, legacy or donation

mortis causa; (b) When judicial sentence intervenes, by rights embodied in signed deeds originated at least three months before the declaration of war.

Article 24.—It is forbidden to notaries to authorize documents or deeds relating to immovable assets or real estate dues entered in the name of blocked nationals (*nacionales bloqueados*), unless the operation is previously authorized by the Executive Power in view of exceptional circumstances in the case.—Acts or contracts authorized in contravention of the present law will be null and void.—The authorization to which this article refers must be literally transcribed in the instrument.

CHAPTER IV

CONCERNING EXPORTS

Article 25.—All kinds of exports or re-exports to any of the countries at war with the Republic are totally forbidden. Export and re-export to other countries, of the articles subject to control of export in the United States of America, is equally forbidden, except to the United States and the other American Republics who have ordered laws of control of exports to belligerent countries.

Article 26.—The prohibition to which the second part of the preceding article refers does not include objects of personal or domestic use nor those which form part of luggage, except when dealing with commercial quantities or those not proportionate to the personal requirements of the traveller.

Article 27.—Proprietors, usufructuaries, lessees, sequestering creditors or owners of agricultural or industrial establishments of any of the nationals of the countries at war with the Republic, or whose names are included in the lists promulgated (*listas proclamadas*) by the United States of North America, who wish to export their products, may do so only through the Central Bank of Guatemala, to whom they should be handed over.

Article 28.—The Central Bank of Guatemala will act in its own name and on its own account to arrange the exportation of the products and it is its duty to fulfil all the obligations which are imposed on depositaries by the laws.

Article 29. The Central Bank of Guatemala will be charged with a rigorous control in respect of the products which it receives, exports or sells; and the product of the sale, in each case, will be applied in the following manner: (1) To cover fiscal dues which are pending; (2) To pay monthly to the administration of each establishment the quantity absolutely necessary, in the judgment of its technicians, for the maintenance of the same; (3) To provide the owners of the products sold, should they lack other income, with the amounts strictly necessary for their sustenance and that of their families; (4) To pay the interest and amortizations on pending debts; (5) To pay debts whose term has expired; (6) If there is any residue of the price obtained, this will be frozen in the funds of the Central Bank of Guatemala and this residue may not be disposed of until after the end of the war, provided that it shall not be subject to charge or encumbrance on account of other responsibilities.

Article 30.—It is understood that the payments made in conformity with the provisions laid down in clauses 4 and 5 of the preceding article may be made without any limitation or restriction, provided that the third party beneficiaries are neither nationals of any of the countries with which the Republic is in a state of war nor do their names figure in the promulgated lists (*listas proclamadas*), in which case the operation may be made as a transfer of accounts, the respective funds being cancelled.

Article 31.—Exporters who are not of the nationality of any one of the countries with which the Republic is in a state of war or who do not figure in the promulgated lists (*listas proclamadas*), but who must effect payment with the product of their exports to third persons who are of that nationality, or are on the stated list, are obliged to notify the Central Bank of Guatemala of the existence of the respective agreements, so that the payments may be made in the Bank itself on account of the debtor, and the Bank will receive the payment in the name of the blocked creditor (*acreedor bloqueado*), keeping the funds frozen until the end of the war. The creditor is obliged to issue a letter of payment to the debtor and to cancel the mortgages which were held guaranteeing the payment thus verified.

Article 32.—The provisions of the present chapter will apply, not only to persons who are nationals of any of the countries with which the Republic is in a state of war, or whose names figure in the promulgated lists (*listas proclamadas*), but also to their agents, employees or representatives who perform or endeavour to perform any act prejudicial to the defence of democratic institutions.

Article 33.—The infringement of the provisions laid down in Article 24 of the present law will be punished as an offence against the laws of contraband, plus the confiscation of the goods forming the traffic.

Article 34.—The export of articles and the control over agricultural or industrial establishments to which this chapter refers, are submitted, in so far as may be applicable, to the regulations contained in governmental decree number 2628.

Article 35.—Control over coffee estates belonging to private persons or corporations, who have the nationality of any of the countries with which the Republic is in a state of war, or whose names figure in the promulgated lists (*listas proclamadas*), and the export of the said bean produced on the estates, are subject to the provisions contained in governmental decrees numbers 2601 and 2628 and to any others ordered in the future.

CHAPTER V

ADDITIONAL WAR TAXES

Article 36.—An additional tax, of fifty *centavos de quetzal*, is imposed on each *quintal* of coffee which is exported, whenever the said article shall have been produced on estates belonging to blocked nationals (*nacionales bloqueados*) or to persons inscribed in the promulgated lists (*listas proclamadas*).

Article 37.—A tax is established of twenty-five *centavos de quetzal* on each *quintal* of sugar and a tax of one *quetzal* on each load of unrefined sugar which is exported or sold in the interior of the Republic, whenever the said articles shall have been produced on any kind of sugar estate (*fincas, ingenios o trapiches*) belonging to persons to which the previous article refers.

Article 38.—The tax on liquid utilities or profit-making concerns belonging to blocked nationals (*nacionales bloqueados*) or to persons or bodies registered on the promulgated lists (*listas proclamadas*), will be as follows: Utilities of Q. 1,000 to Q. 10,000 10 %. Utilities of more than Q. 10,000 to Q. 20,000 12 %. Utilities of more than Q. 20,000 to Q. 40,000 14 %. Utilities of more than Q. 40,000 to Q. 80,000 16 %. Utilities of more than Q. 80,000 to Q. 100,000 18 %. Utilities of more than Q. 100,000 20 %.

Article 39.—Income derived from the taxes created by the present law will be earmarked, preferably, for purposes of national defence.

CHAPTER VI

GENERAL PROVISIONS

Article 40.—By the term "blocked national" (*nacional bloqueado*) is understood every person, natural or juridical, official or private, who is a national of any of the countries at war with the Republic or linked juridically or politically with the institutions or official bodies of the same. Any Guatemalan or foreign person or body who co-operates or operates in direct or indirect manner in favour of blocked nationals (*nacionales bloqueados*) of countries of war will also be counted as a blocked national (*nacional bloqueado*).

Article 41.—The Government may order exclusion from the application of the provisions contained in the present law of persons who, even though they are nationals of the countries at war with the Republic, have suffered persecutions for reasons of race or religion, for which in each specific case the relevant provisions will be ordered by the organ of the Secretariat of External Relations (*Secretaría de Relaciones Exteriores*).

Article 42.—Governmental decrees numbers 2531, 2654, and the governmental resolutions issued by the organ of the Secretariat of Government and Justice (*Secretaría de Gobernación y Justicia*) dated 12th, 13th and 19th of the present month of December are annulled, as they are remade in the preceding provisions.

Article 43.—The present law will come into force on the day after its publication in the Official Journal (*Diario Oficial*), and account will be given of it to the Legislative Assembly in its next ordinary or extraordinary sessions as the case may be.

Given in Government House: in Guatemala, on the twenty-third day of the month of December, one thousand nine hundred and forty-one.

JORGE UBICO.—The Secretary of State in the Office of External Relations (*Secretario de Estado en el Despacho de Relaciones Exteriores*), CARLOS SALAZAR.

The Secretary of State in the Office of Government and Justice (Secretario de Estado en el Despacho de Gobernación y Justicia).—GMO. S. DE TEJADA.

The Secretary of State in the Office of the Treasury and Public Credit (Secretario de Estado en el Despacho de Hacienda y Crédito Público), J. GONZALEZ CAMPO.

The Secretary of State in the Office of War (Secretario de Estado en el Despacho de Guerra), JOSE REYES.

The Secretary of State in the Office of Fuel (Secretario de Estado en el Despacho de Fomento), GUILLO. CRUZ.

The Secretary of State in the Office of Agriculture (Secretario de Estado en el Despacho de Agricultura), RODERICO ANZUETO.

The Secretary of State in the Office of Public Education (Secretario de Estado en el Despacho de Educación Pública), J. ANTONIO VILLACORTA C.

Annex 10

GOVERNMENTAL DECREE NUMBER 3134 OF THE
14th AUGUST 1944

FEDERICO PONCE V, FIRST DESIGNATE IN THE EXERCISE OF THE
PRESIDENCY OF THE REPUBLIC,

CONSIDERING :

That it is convenient to harmonize the concepts of the emergency laws and provisions, in so far as it affects private persons or corporations, who by their financial influence, especially in the Republic, may form a virtual danger for the cause of the United Nations ;

CONSIDERING :

That for such reasons it is necessary not to limit the effects of governmental decree number 3115 to coffee estates and the shares (acciones y participaciones) which certain persons of German nationality have in them, but to make them extend to immovable property in general, to commercial and industrial establishments, shares (participaciones, acciones) and real estate dues belonging to private persons or corporations included in the "promulgated lists" (listas proclamadas) published in the Official Journal (Diario Oficial), or of those persons who without so being, are individually mentioned in Article 40 of the Emergency Law (governmental decree number 2655) ;

THEREFORE,

Invoking the powers conferred upon him by clauses 23 and 26 of Article 77 of the Constitution and legislative decree number 2564.

DECREES :

Article 1.—In the cause of public utility and necessity the following are expropriated in favour of the Nation : immovable assets in general, commercial and industrial establishments, bonds, shares (participaciones, acciones) and real estate dues belonging to private persons and corporations included in the "Promulgated lists" (listas proclamadas), published in the Official Journal (Diario Oficial) and those which are individually mentioned in Article 40 of governmental decree number 2655.

Article 2.—Corresponding indemnification will be determined by the amount for which the proprietor had declared the immovable for payment of fiscal contributions at the date of the declaration of war. Nevertheless, the State reserves itself the right, for the purposes of this article, to resort to the valuation of immovables when it deems this convenient. In this latter case, and when it is a matter of commercial or industrial establishments, bonds, shares (participaciones, acciones) and real estate dues, the valuation by experts will be carried out through administrative channels, and in the form agreed by the Secretariat of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público).

Article 3.—In conformity with Article 28 of the Constitution of the Republic, payment of the indemnification to which the preceding article refers will be effected after the war is definitely ended, and in harmony with the resolutions concerning indemnifications which may be adopted by the United Nations.

Article 4.—The Executive Power will indicate in subsequent decrees the private persons or corporations whose assets are expropriated in conformity with the present law.

Article 5.—The assets and estate dues expropriated will be entered in favour of the Nation in the corresponding registers ; and the procedure to follow for such an object will be the subject of a special law.

Article 6.—Governmental decree number 3115 is annulled.

Article 7.—Account will be given of the present decree, which will come into force on the day after its publication in the Official Journal (Diario Oficial), to the National Legislative Assembly in its next sessions.

Given in the National Palace : in Guatemala, on the fourteenth day of the month of August one thousand nine hundred and forty-four.

FEDERICO PONCE V.—The Secretary of State in the Office of the Treasury and Public Credit (El Secretario de Estado en el Despacho de Hacienda y Crédito Público), M. MELGAR, jr.

Annex 11

GOVERNMENTAL DECREE NUMBER 3135 OF THE
14th AUGUST 1944

National Palace : in Guatemala, on the fourteenth day of the month of August one thousand nine hundred and forty-four. — FEDERICO PONCE V. — The Secretary of State in the Office of the Treasury and Public Credit (El Secretario de Estado en el Despacho de Hacienda y Crédito Público), M. MELGAR, jr. Decree Number 3135

FEDERICO PONCE V., FIRST DESIGNATE IN THE EXERCISE OF THE
PRESIDENCY OF THE REPUBLIC,

CONSIDERING :

That when governmental decree number 3119 was issued, in which is contained the list of estates subject to expropriation and consequent nationalization, the names of the subsidiaries of the majority of the immovables referred to were omitted, whose subsidiaries in some cases make up through their extent and cultivation the most valuable part of the estates ;

THEREFORE :

In conformity with the provisions of legislative decrees 2564 and governmental decree number 3134,

DECREES :

Article 1.—We proceed to the expropriation and nationalization of the following estates and their corresponding subsidiaries, which figure in the name of persons included in governmental decrees numbers 2655 and 3134¹: ACTELA — Saxujá — Samiljá — Samarac — Seriquiché — Camelias — Pinales — Kurt Lindener — Senahú, A.V. — CHIACAM — Sapper & Co., Ltda. — San Pedro Carchá. — SACOYU — Sapper & Co., Ltda. — San Pedro Carchá. — AGUIL — Sayashut — Alfredo Schleichauff — Cobán, A.V. — CAMPUR — Seamay — Chubelchoc — Sapper & Co., Ltda. — San Pedro Carchá. — CHINAMA — Chicaj — Chajbul — Chirejul — San Javier — Sapper & Co., Ltda. — Lanquin. — CHULAC — Corralpec — Buena Vista — Sapper & Co., Ltda. — Senahú. — PANTIC — Papabaj — Panjorná — Raxquix — Sapper & Co., Ltda. — Tamahú. — CHILTE — Choctún — San Jacinto — Chancarreal — Rosario — Samox — Chimatcanib — Balbatzul — Sapper & Co., Ltda. — San Pedro Carchá. — CHIMAX — Chibencorral — Saxoc — San José — Sapper & Co., Ltda. — Cobán. — CHICOJ Y CHICOYUITO — Chiocan — Chonc — José y Alf. Christ — Cobán. — TRECE AGUAS — Rubeltzul — Secacao — Emma de F. Ferst — Senahú. — GUAXPOM — Rocja — Chiretsac — La Isla Chininlajón — Dieseldorff Sucs — Tukurú. — CHIMO — Berenaxaja — Tanchi — Dieseldorff & Co., Suc. — San Pedro Carchá. — PANCUS — Sacsamani — Otto Hussmann —

¹ In the list which follows the name of Nottebohm Hermanos appears twelve times. For the convenience of the Court the name Nottebohm Hermanos has been underlined.

Tucurú.—SAN JUAN — La Providencia — Seamay — Carlos y E. Hussmann — Senahú.—PACHILHA — Pachinsivic — Raxquix — Rodolfo Sterkel — Tucurú.—LA FLORIDA — Rob. Schlieshauff — Tucurú.—SECOYOCTE — Armenia — Chipemech — Secoc — Máximo Wohlers — Senahú.—SAN VICENTE — Chipoc — Hüge Droege — San Pedro Carchá.—CHIMOTE — Chajamacán — Choctún — Chocubain — Las Nubes — Pexic — Otto Noak — Cobán.—XICACAO — Sacsí — Rubelcruz — Sepach — Chicambá — Buschsel & Co. — San Pedro Carchá.—LA ESPERANZA — Emilio Sterkel — Tucurú.—LA PROVIDENCIA — Netty de Hussman — San Cristóbal.—WESTFALIA — Monte Blanco — Jalauté — Herederos de Hussmann — Purulhá, B.V.—EL POTOSI — Santa Elisa — La Soledad — *Nottebohm Hnos.* — Pochuta, Chiml.—LA FLORIDA — *Nottebohm Hnos.* — Pochuta.—SIBAJA — La Conchita — Federico Koper H. — Yepocapa.—LA SUIZA — Hdros. M. Nowakiski — San Vicente Pacaya, Esc.—PENAPLATA — Nonjol — Tonajuyú — El Molino — Carlos Hegel-Yepocapa.—SABANA GRANDE — Conrado Morjan — Escuintla.—VENEZIA — Rodolfo Reiffen — Villa Canales, G.—ARAUCO — J. v. de Peitzner — Villa Canales, G.—ROSARIO BOLA DE ORO — Elsie de Suckau — Colomba, Quezaltenango. — LAS MERCEDES — Santo Domingo — Santa Ana Berlín — Taltucú — Talcuchum — Alfredo C. Steffen — Colomba, Quezaltenango.—LA FAMA — Herbert Herman y Hno. Colomba, Quezaltenango.—CHICHIHUITE — Carlota Herman — Colomba, Quezaltenango.—EL LEON — Oscar Lange — Colomba, Quezaltenango.—CAFETAL HAMBURGO — Jorge y Fritz Albretch — San Felipe, Retalhuleu.—SANTA AGUSTINA — El Encanto — Laureles — Esperancita — Independencia Francisco Gross — Nuevo San Carlos, R.—LA AURORA — Nuevo Edén — Fresse y Rubien — Nuevo San Carlos, R.—S. FRANCISCO PECUL — Selma K. de Ockelmann — San Felipe, Retalhuleu.—SDIONISIO Y ANEXOS — Selma K. de Ockelmann — San Felipe, Retalhuleu.—EL CARMEN — Carolina-Máximo Bregartner — San André, Villa S. — LOS BRILLANTES — *Nottebohm Hnos.* — Santa Cruz Muluá. — CANDELARIA — Xolhuitz — El Hato Ocosito' — Buenos Aires — Tesalá — San Juan — Asssburg & Co. — Nuevo San Carlos.—EL EDEN Y ANEXOS — Fresse y Rubien — Nuevo San Carlos.—LAS CAMELIAS — Fresse y Rubien — Nuevo San Carlos.—LAS SABANETAS — *Nottebohm Hnos.* — Barberena, Santa Rosa.—SANTA ISABEL — Joya Grande — Jocote — San Marcos — El Cerrito — Federico Keller Sucs. — Pueblo Nuevo Viñas.—EL CACAHIUTO — Gerlach & Co. — Taxisco.—S. DIEGO BUENA VISTA — Juan Bock — Acatenango.—MILAN Y ANEXOS — El Tránsito — Santa Rita — J. Franco, Hastedt Suc. — Chicacao, Such.—CHINAN — Maravillas — J. Franco, Hastedt Suc. — Chicacao, Such. — EL COROZO — La Candelaria — J. Franco, Hastedt Suc. Samayac.—SAN RAFAEL PANAN — Guatalón — Morazán — *Nottebohm Hnos.* — Santa Bárbara.—SANTA CECILIA — El Chiclé — Elena — *Nottebohm Hnos.* — San Francisco Zap.—LOS CASTANOS — *Nottebohm Hnos.* — Chicacao.—SAN BASILIO — Conrado Franke — Chicacao.—SAN JULIAN — Santa Cecilia — Guillerino Peitzner — Patulul.—EL RECUERDO — Gustavo Peitzner — Patulul. — LA PERLA — Jorge Bollmann — Chicacao.—LA UNION — Giessemann Hnos. — Nuevo Progreso, S.M.—EL BALUARTE — El Nance — Primavera — Pontera — Carolina — Alicia — Ad. Giessemann & Co. — La Reforma. — NUEVO GRANADA — Reinaldo Schorke — El Tumbador.—MUNDO

NUEVO -- San Ignacio -- Sonora -- Federico Hartleben -- Malacatán. — EL PERU -- Aguadulce -- Santa Alicia -- *Nottebohm Hnos.* -- El Tumbador. — MEDIODIA -- Filipinas -- Montecristo -- *Nottebohm Hnos.* -- El Tumbador. — LORENA -- La Lucha -- La Ceiba -- Nueva Reforma -- Otto Jauch -- San Rafael -- Pie de la Cuesta. — LA SUIZA -- Krische Hnos. La Reforma. — BOLA DE ORO -- *Nottebohm Hnos.* -- El Tumbador. — LA SOLA -- Alfredo C. Steffen -- La Reforma. — LUCITA LINDA -- Argeila -- Rodolfo Luttmann -- El Tumbador. — MONTELMAR -- Belén -- Asseburg & Co. Malacatán. — LA IGUALDAD -- Walter Wilson & Co. La Reforma. — VENECIA -- Pablo Jelckmann -- Nuevo Progreso. — EL CARMEN -- Alberto Hartleben -- Tajumulco. — EL ZAPOTE -- El Tecomate -- Hered. Max Mahler -- San Rafael Pie de la Cuesta. — CARMEN METZABAL -- *Nottebohm Hnos.* -- Santiago Atitlán. — EL CAPUCAL -- Ceniza -- Piedras Blancas -- Berta Kauffmann & Co. -- Gualán. — LA CARTUCHERA Y ANEXOS -- Guillermo Valentín -- Gualán. — MORELIA Y LA DELICIA -- Guillermo Tornoe -- El Tumbador. — CHINASAYUB -- Sahacoc -- Herederos Boehm Hnos. Cobán Alta Verapaz. — CHIRREPEC -- Campat -- Herederos Boehm Hnos. -- Cobán, Alta Verapaz. — VALPARAISO -- La Reforma -- Enrique Hersch. Cuyotenango. — HACIENDA SANTA ELENA -- Julia v. de Peitzner -- Suchitepéquez. — HACIENDA LA CABANA -- Carlos Hegel -- Suchitepéquez. — HACIENDA LAS ANIMAS -- Francisco Hasdt Sucs -- Suchitepéquez. — HACIENDA COATUNCO -- *Nottebohm Hnos.* -- Coatepeque. — SAN CARLOS CHUCUL -- Enrique -- Hersch -- Suchitepéquez. — SANTA FE -- Enrique Hersch -- Suchitepéquez. — LOS HULARES -- Enrique Hersch -- Suchitepéquez. — CANDELARIA -- Enrique Hersch -- Suchitepéquez.

Article 2.—The present law, for the purposes of expropriation and nationalization, includes the subsidiaries not enumerated in the preceding article, but which appear as entered in the Register of immovable property (Registro de la propiedad inmueble).

Article 3.—Also expropriated and nationalized are bonds, and shares (acciones y participaciones) which those included in governmental decree number 3134 have in any one or more estates whose expropriation has been ordered.

Article 4.—By this decree, in addition, are expropriated and nationalized the shares of the Agrarian Company Viñas Zapote (Sociedad Agrícola Viñas Zapote) and the Concepción Company of Plantations (Compañía de Plantaciones Concepción).

Annex 12

GOVERNMENTAL DECREE NUMBER 3138 OF THE
23rd AUGUST 1944

FEDERICO PONCE V, FIRST DESIGNATE IN THE EXERCISE OF THE
PRESIDENCY OF THE REPUBLIC,

Invoking the powers conferred upon him by clause 23 of Article 77 of the Constitution, and in conformity with Article 5 of governmental

decree number 3134.

DECREES :

The following LAW FOR THE APPLICATION AND EXECUTION OF GOVERNMENTAL DECREES NUMBERS 3134 AND 3135 (LEY PARA LA APLICACIÓN Y EJECUCIÓN DE LOS DECRETOS GUBERNATIVOS NUMEROS 3134 Y 3135).

Article 1.—The Secretariat of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público) will be charged with everything relative to the fulfilment and execution of governmental decrees numbers 3134 and 3135 with intervention of the Procurator-General of the Nation (Procurador general de la Nación).

Article 2.—The Procurator-General of the Nation (Procurador general de la Nación) will establish special proceedings before the political Headquarters of this administrative area (departamento), for the cases of expropriation referred to by governmental decrees numbers 3134 and 3135.

Article 3.—When the expropriation refers to immovable assets, rural or urban, in the said proceedings the following facts will be established and verified :

(a) In relation to the title-deeds of ownership : (1) Number, book and folio of registration of the estate and of its subsidiaries ; (2) Name of the estate and of its subsidiaries — town and administrative area (departamento) ; (3) Area and confines ; (4) Owner ; (5) Real estate duties, mortgage dues, agricultural securities, annotations, depreciation allowances and any other charges which bear upon each estate ; and (6) Person or persons in whose favour figure the dues enumerated in the preceding clause.

(b) With relation to the status of persons : (1) If the persons mentioned in clauses (4) and (6) of point (a) of the present article are included or not in the promulgated lists (listas proclamadas) published in the Official Journal (Diario Oficial), or are among those who appear specifically mentioned in Article 40 of governmental decree number 2655.

(c) Sum in which the owner has declared the immovable for the contribution of three per thousand at the date of the declaration of war, in conformity with Article 2 of governmental decree number 3134.

Article 4.—When the expropriation refers to commercial or industrial establishments, in addition to fulfilling the conditions established in the preceding article, as far as it be applicable, their value will be fixed by experts in conformity with Article 2 of governmental decree number 3134.

Article 5.—When the expropriation refers to the shares (acciones ... participaciones), bonds, and real estate dues mentioned in Article 1 of governmental decree number 3134 and Articles 3 and 4 of governmental decree number 3135, the monetary and banking department of the Secretariat of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público) will proceed to a revision of the books, bonds, shares (acciones y participaciones) of private persons and corporations affected by governmental decrees numbers 3134 and 3135

and will submit its report to the Procurator-General of the Nation (Procurador general de la Nación) for appropriate action.

Article 6.—The Procurator-General of the Nation (Procurador general de la Nación) with the reports of the monetary and banking department, will order before the political Headquarters of this administrative area (departamento) the preparation of a file in which are to be stated and verified: (a) The number and sum of the shares (acciones participaciones) or bonds; (b) The name and other details of the private person or corporation to whom the said bonds, shares (acciones, participaciones) or real estate dues belong; and, (c) Their valuation, in conformity with Article 2 of governmental decree number 3134.

Article 7.—The political Headquarters of this administrative area (departamento) will make known to the owner or owners affected by governmental decrees numbers 3134 and 3135 the term, which may not be extended, of three days so that they may issue before the Clerk of the High Court of Justice (Escribano de Cámara), in favour of the State, the deed of transference of ownership both in respect of immovables and of the said establishments, shares (acciones participaciones), bonds or real estate dues, warning them that in default it will be done officially.—This notification should be made by means of edicts published in the Official Journal (Diario Oficial), three times within the space of fifteen days. The term of three days fixed in this article will begin to be counted from the day following that on which the last publication is made and in the said term the distance will be deemed to be included.

Article 8.—Within the term of three days which is fixed in the preceding article for the issuing of the deed, the persons to whom this order applies will hand over to the political Headquarters of this administrative area (departamento), the corresponding deeds of ownership of the assets, establishments, shares (acciones participaciones), bonds and real estate dues to be expropriated, under a penalty of a fine of ONE HUNDRED TO FIVE HUNDRED QUETZALES, which will be fixed by political Headquarters, or imprisonment commutable to a fine at the rate of ONE QUETZAL a day without prejudice to the initiation of the respective expropriation proceedings.

Article 9.—Once the deed has been issued in the said form, the corresponding Registrar of Immovable Property (Registrador de la Propiedad inmueble) will proceed to enter it immediately in the respective registers and the Secretariat of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público), through the Department of national rural estates and sequestered estates (Departamento de fincas rústicas nacionales y de las intervenidas), will enter into full possession of the immovables, establishments, shares (acciones participaciones), bonds and real estate dues expropriated.

Article 10.—Any counter-claim or appeal set in motion against the resolutions of the political Headquarters will be conducted separately before the same Headquarters, and in no case will it hinder the conduct and procedure to which this decree refers.

Article 11.—The administration, management and maintenance of the estates and their subsidiaries and establishments expropriated by

virtue of governmental decrees numbers 3134 and 3135, will be on the charge of the Department of national rural estates and sequestered estates (Departamento de fincas rústicas nacionales y de las intervenidas) attached to the Secretariat of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público) and as a whole subject to the provisions of governmental decree number 3123.

Article 12.—When the expropriation includes only shares (acciones participaciones), bonds or real estate dues, the administration of the respective estates and establishments will be decided by the Government, in agreement with the other joint owners, provided that they are not affected by governmental decrees 2655, 3134 and 3135.

Article 13.—When it is proved in a *bona fide* manner that expropriated persons live exclusively on the product of the estates and establishments which are the object of the expropriation and that they lack other means of subsistence, the Secretariat of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público) will determine, in favour of such persons, a minimum monthly grant which shall be a charge on the sum of pending indemnification.

Article 14.—The Department of national rural estates and sequestered estates (Departamento de fincas rústicas nacionales y de las intervenidas) of the Secretariat of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público) is charged with formulating the fundamental bases of a broad programme by means of which the State, with the greatest possible financial convenience, may proceed with the transfer of these properties to native Guatemalan citizens who possess qualities of honesty, ability and dedication to work.

Article 15.—Assets transferred to native Guatemalan citizens by virtue of the preceding article may not be transferred to others, mortgaged, given in use or usufruct, nor inherited in favour of foreign persons, be they individuals or corporations; and, in no case, may they be sold or given up before thirty years have elapsed from the date when the deed of transference of ownership was authorized. In case of mortgage this may only be carried out with the Central Bank of Guatemala, the National Credit Loan (Crédito hipotecario nacional) or with native Guatemalans.

Article 16.—This decree will come into force from the day following its publication in the Official Journal (Diario Oficial) and account will be given of it to the National Legislative Assembly in its next sessions.

Given in the National Palace: in Guatemala, on the twenty-third day of the month of August one thousand nine hundred and forty-four.

FEDERICO PONCE V.—The Secretary of State in the Office of the Treasury and Public Credit (Secretario de Estado en el Despacho de Hacienda y Crédito Público), M. MELGAR, jr.

*Annex 13*LEGISLATIVE DECREE NUMBER 114 OF THE
22nd MAY 1945

THE CONGRESS OF THE REPUBLIC,

CONSIDERING :

That some emergency regulations and especially governmental decrees numbers 3134 and 3138, contain regulations which are not in harmony with the new Constitution of the Republic ;

CONSIDERING :

That in conformity with Article 92 of the Great Charter (Carta Magna), enemy property can be sequestered and expropriated, by reason of war ; and that in consequence, the expropriation having been decreed of the immovable assets in general, of commercial and industrial establishments, bonds, shares (participaciones, acciones) and real estate dues belonging to private persons or corporations included in the "Promulgated lists" (Listas proclamadas), or of those who, without being so included, are specifically named in Article 40 of the Emergency Law (governmental decree number 2655), the decisions referring to this case ought to be made, so that this may be carried out in a just and equitable manner, paying attention to the special situation of some of the persons included in the "Promulgated Lists" (Listas Proclamadas) or affected by the said laws ;

CONSIDERING :

That the law relating to the application and carrying out of governmental decrees numbers 3134 and 3135, contained in governmental decree number 3138, includes costly proceedings which ought to be avoided so that the expropriation proceedings may be made effective and that it is necessary to avoid further delays in the granting of those deeds relating to the proceedings now concluded ;

THEREFORE,

DECREES :

The following alterations to governmental decrees numbers 3134 and 3138, approved and amended by legislative decrees numbers 2811 and 2812, respectively :

Article 1.—The third Article of governmental decree number 3134, to read as follows : "Article 3.—In conformity with Article 92 of the Constitution of the Republic, the payment of indemnification to which the preceding article refers is reserved until the peace treaties have been signed and ratified on the part of the Republic, the damages, losses and depreciation (daños y perjuicios) being taken into account which the country has suffered by reason of its enforced subjection to war economy or by reason of any other cause."

Article 2.—The second Article of governmental decree number 3138, to read as follows: "Article 2.—The Procurator-General of the Nation (Procurador General de la Nación) will open a special file for each of the cases of expropriation to which governmental decrees numbers 3134 and 3135 refer. One file will be opened for each of the private persons or corporations the expropriation of whom or of which is in progress, in which will be comprehended all the assets, dues and shares belonging to them, provided that the proceedings already terminated are not thereby affected."

Article 3.—The fifth Article of governmental decree 3138 referred to, to read as follows: "Article 5.—When the expropriation refers to the shares (acciones ... participaciones), bonds and real estate dues mentioned in Article 1 of governmental decree number 3134 and Articles 3 and 4 of governmental decree number 3135, the Procurator-General of the Nation (Procurador General de la Nación) will apply to the corresponding offices, requesting them to revise the books, bonds, and shares (acciones y participaciones) of the private persons or corporations affected by governmental decrees numbers 3134 and 3135, which will give him the information as briefly as possible for the following purposes."

Article 4.—The sixth Article of the indicated decree number 3138 to read as follows: "Article 6.—The Procurator-General of the Nation (Procurador General de la Nación), with the information obtained in accordance with the dispositions of the preceding article, will open a file in which will be established and verified: (a) the number and sum of the shares (acciones ... participaciones) or bonds; (b) the name and other details of the private persons or corporations to which they belong; and (c) their valuation, in conformity with article 2 of governmental decree number 3134."

Article 5.—The seventh Article, of the same governmental decree number 3138, to read as follows: "Article 7.—The Procurator-General of the Nation (Procurador General de la Nación) will appoint for the proprietor or proprietors affected by the expropriation decrees, the term of three days, which may not be extended, in which they must issue before the Clerk of the High Court of Justice (Escribano de Cámara), in favour of the State, the corresponding deed of transference of ownership, both with respect to the immovables and to the establishments, shares (acciones ... participaciones), bonds, or real estate dues referred to, warning them that it will be done officially, in case of default. This notification will be given in a single edict to be published in the Official Journal (Diario Oficial), and the term of three days referred to will be counted from the date of the said publication, in which term the distance will be understood to be included.— In respect of proceedings in which the facts indicated by Article 3 of governmental decree number 3138 are completed to date, without further proceedings a decision will be taken ordering the issuing of a deed of transference of ownership in favour of the State, provided that the proceedings are concerned with nationals at war with Guatemala, having no claim in their favour pending, presented at least a month before the publication of this law. The notification will be made in the form indicated by the preceding paragraph, and the deed transferring the immovable,

immediately, even when, in the case of proceedings which are concerned with various assets, facts relative to the assets which are not immovable are lacking."

Article 6.—The following article is added to the indicated governmental decree number 3138: "The proceedings which cannot be pursued, because of a pending counter-claim or claim, may not be delayed more than twenty days, plus the term of the distance, during which period of time the interested parties must establish their rights to be excepted from the effects of this law, in conformity with the stipulations of Article 10."

Article 7.—The eighth Article of the same governmental decree number 3138, to read as follows: "Article 8.—If the persons or person notified in the form prescribed by Article 7 of this law do not issue within the term of three days the corresponding deed of transference of ownership, the Procurator-General of the Nation (Procurador General de la Nación), officially, and in case of default by the person affected by the indicated laws, will issue before the Clerk of the High Court of Justice (Escribano de Cámara) the corresponding deed of transference of ownership."

Article 8.—The ninth Article of the indicated governmental decree number 3138, to read as follows: "Article 9.—When the deed of transference of ownership has been issued, the corresponding Registrar of Immovable Property (Registrador de la Propiedad Inmueble) will proceed to enter it immediately in the respective registers and the State will enter into full ownership of the assets, through the appropriate office according to the nature of the same."

Article 9.—The tenth Article of governmental decree number 3138, to read as follows: "Article 10.—Only those private persons or corporations are excepted from the procedure indicated in the preceding articles who or which are not at present included in the "Promulgated Lists" (Listas Proclamadas), and who are not nationals of any of the countries at war with the United Nations, it being decided in each concrete case which presents itself by the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) in agreement with that of External Relations (el de Relaciones Exteriores), whether the expropriation is continued or the assets simply sequestered according as to whether they may constitute by their financial importance a peril to the cause of the United Nations, or if they are excepted from the provisions to which the Emergency Laws apply.—The Executive will regulate the procedure to be followed in the excepting, which the following private persons or corporations will not enjoy: (a) those who have belonged at any time to the National Socialist Party or to any other official political group of the countries at war with Guatemala, or to its branches, groups, societies and organizations established in the Republic; (b) those who have co-operated, directly or indirectly, with those parties or contributed to their support and propaganda; (c) those who have been present at the political meetings of the said organizations or who took part in the plebiscite which took place on the 20th of April, 1938, on board the steamship *Cordillera*; (d) those who have had business with private persons or corporations included in the "Promulgated Lists" (Listas Proclamadas),

or co-operated, directly or indirectly, with the enemies of the Republic ;
 (e) those who cannot verify satisfactorily that they were never proved falsely to be suspect of activities directed against the democracies ;
 (f) those who, holding Guatemalan nationality, have been registered at the consulates of the nations at war with Guatemala as nationals of any of those nations, or have travelled with passports of those countries, or enjoyed dual nationality in any form."

Article 10.—The following article is added to governmental decree number 3138 referred to: "The counter-claim proceedings initiated before the Departmental Government (Gobernación departamental) must pass to be finally settled to the Public Ministry (Ministerio Público)."

Article 11.—The following article is added to the indicated governmental decree number 3138: "The Public Ministry (Ministerio Público) is obliged to revise officially the exceptions of the assets of private persons or corporations made since the sequestration of the said assets took place in accordance with governmental decrees numbers 2655, 3134, 3135 and 3138, and legislative decrees numbers 2811 and 2812, when there exists a presumption that the exceptions favour persons who ought to be included in the emergency laws ; or by reason of the denunciation of any citizen who can show that there exists reasonable evidence for that revision. If in the course of investigation it be shown that there was negligence of interest on the part of any of the officials who intervened in the exception, criminal proceedings will be opened against the culprit."

Article 12.—The following article is added to governmental decree number 3138: "The Procurator-General of the Nation (Procurador General de la Nación) must stop completely the proceedings in progress and all the expropriated assets must be registered in the name of the Nation in the corresponding Register of Immovable Property (Registro de la Propiedad Inmueble) by the 10th of September, 1945, at the latest."

Article 13.—Article 5 of legislative decree number 2812 which modified Articles 14 and 15 of governmental decree number 3138, is annulled, and the expropriated immovables must be proceeded with in the form determined by Article 93 of the Constitution of the Republic.

Article 14.—This decree will come into force on the day of its publication in the Official Journal (Diario Oficial).

Pass to the Executive for its publication and fulfilment.

Given in the Palace of the Congress : in Guatemala, the sixteenth of May, one thousand nine hundred and forty-five, the first year of the Revolution.

JORGE GARCIA GRANADOS, President.—A. BAUER PAIZ, Secretary.—JOSE M. FORTUNY, Secretary.—National Palace: Guatemala, twenty-second of May, one thousand nine hundred and forty-five. — Let it be published and fulfilled. JUAN JOSE AREVALO.—The Minister of the Treasury and Public Credit (Ministro de Hacienda y Crédito Público), C. LEONIDAS ACEVEDO."

ANNEX 14

LEGISLATIVE DECREE NUMBER 630 OF THE
25th MAY 1949

THE CONGRESS OF THE REPUBLIC OF GUATEMALA,

CONSIDERING :

That this body (Organismo), having accepted in its entirety the veto applied by the Executive to decree number 514, the whole body of regulations established by rule, law and decree relating to the management of enemy property and to the war claims of the State arising from its participation in the second world war, are suspended, which it is urgent to set right by means of a new law which will embrace the valuable observations with which the Executive accompanied the veto in question ;

CONSIDERING :

That in conformity with Recommendation V of the Third Consultative Assembly of Ministers of External Relations (Tercera Reunión de Consulta de los Ministros de Relaciones Exteriores) held in Rio de Janeiro in 1942 ; in conformity with Recommendation VII of the Inter-American Conference on the System of Economic and Financial Control (Conferencia Interamericana sobre el Sistema de Control Económico y Financiero) held in Washington in 1942 ; in conformity with Resolutions VII, XVIII and XIX of the Inter-American Conference on Problems of the War and the Peace (Conferencia Interamericana sobre Problemas de la Guerra y de la Paz), held in Mexico in 1945, and with those of the Ninth International American Conference (IX Conferencia Internacional Americana) held in Bogotá in 1948, the Republic of Guatemala has undertaken unavoidable international obligations relative to the liquidation of enemy property and the fore-swearing of anti-democratic activities on our soil, as measures of continental defence ;

CONSIDERING :

That those international agreements authorize the Republic to decide questions relating to the war and to the peace in conformity with its own laws, as was recommended also by the Special Commission on Enemy Properties (Comisión Especial sobre Propiedades del Enemigo) of the Inter-American Economic and Social Council (Consejo Interamericano Económico y Social) of the 28th of May 1947 ;

CONSIDERING :

That the rules for the economic and political defence of the Nation with respect to the war are widely distributed throughout the emergency legislation, and that it is necessary to recast them in one general statute governing the persons, assets, dues and shares which the enemy and his collaborators possess in Guatemala ;

CONSIDERING :

That in conformity with the precepts of international law and with the Constitution of the Republic, especially Section I, Guatemala, as a sovereign State, can and ought to make out the corresponding claims against Germany and her satellites since she declared war upon them by reason of the aggression of which one of the countries of America was the victim ;

CONSIDERING :

That, together with the Nazi-Fascist ideology, it is necessary also to extirpate completely and permanently its economic resources, as a guarantee of the democracy of Guatemala and of continental security ;

CONSIDERING :

That it is just and a consequence of the rules of the constitution that Guatemalans be indemnified for the damages, losses and depreciation (*danos y perjuicios*) which they suffered by reason of the aggression of Germany and her allies, and by the direct action of the United Nations against enemy territory ;

CONSIDERING :

That the liquidation of the action of war in Guatemala accords with public necessity and utility and with social interest, therefore in conformity with article 92 of the Constitution, the expropriation of the assets, dues and shares of all kinds which the enemy and his collaborators possess in Guatemala, compensating for the said action with the sum of the compensations to which the affected persons have right, is according to law ;

THEREFORE,

DECREES :

The following LAW OF THE SETTLEMENT OF WAR AFFAIRS (*LEY DE LIQUIDACIÓN DE ASUNTOS DE GUERRA*)

SECTION I.—ECONOMIC AFFAIRS

CHAPTER I

CLAIMS BY GUATEMALA

Article 1.—Within five months of the promulgation of this law, Guatemala will fix a sum of its claims against Germany and her satellites, by reason of expenses, damages, losses and depreciation (*daños y perjuicios*) direct or indirect, tangible and intangible, caused to the Republic by its participation in the second world war.

Article 2.—Persons of Guatemalan nationality must formulate within sixty days counted from the day on which this law comes into force claims for damages, losses or depreciation (*daños o perjuicios*) occasioned directly to them by the enemy or the action of war of the allies upon enemy territory.

Article 3.—On account of public utility and necessity, for the payment of war claims and as a means of economic defence, of international security and of social interest, all the assets, dues and shares are immediately expropriated which the enemy and his collaborators may possess in Guatemala, whatever their nationality may be, without prejudice to the sanctions which the Criminal Code (Código Penal) and the special criminal laws determine; and without prejudice to loss of nationality in the cases established by Article 12 of the Constitution.

Article 4.—The State will settle its duly established war claims and those of its nationals, with the sum of the compensations which it should pay to those expropriated according to Article 92 of the Constitution and the relevant provisions of this law.

Article 5.—Being a question of internal sovereignty, the liquidation of accounts and the resolution of affairs of war which the Republic may carry out cannot be the subject of any repeal or modification whatever at the Peace Conference, nor at any other time.

Article 6.—Guatemala will fix its position with regard to Italy as far as war claims are concerned in the peace treaty to be concluded with that country.—The actions of Guatemalans with respect to the damages, losses and depreciation (daños y perjuicios) which they have suffered through causes attributed to the participation of Italy in the war are excepted; the said actions will be examined in accordance with the present law.—The State will in no case accept claims on the part of Italy or of its subjects relating to the measures taken by the Government with respect to the war. The Government of Guatemala will not refund to Italian private persons or corporations payments to the Exchequer (Fisco) made in accordance with orders laid down by the emergency laws; but it will not continue to demand such payments, unless the private persons or corporations are subject to expropriation according to Chapter II, duly qualified by Article 15 of the present law.

CHAPTER II

EXPROPRIATIONS

Article 7.—For the purposes covered by Articles 3 of this law and 92 of the Constitution, all the assets, dues and shares, and the monies of all kinds, in bond and in cash, are considered enemy property, which belong to:

(a) Private persons or corporations holding the nationality of any of the countries with which the Republic was at war, or who held such nationality on the seventh of October, 1938, even though they claim to have acquired another nationality subsequently;

(b) Private persons or corporations who hold simultaneously the nationality of any of the countries with which the Republic was at war and that of any other country, Guatemala included, or who held such nationalities on the 7th of October, 1938, even though they have lost enemy nationality subsequently;

(c) Private persons or corporations who figure in the "Promulgated Lists" (Listas Proclamadas) issued by the Government of the Republic.

in their own name or indirectly, with the nominal list, complete or incomplete, of their assets. When for any reason one or more properties have been omitted from the "Promulgated Lists" (Listas Proclamadas) and any person is named on this list with his own name or with the nominal list, complete or incomplete, of his assets, the property omitted will also be considered as belonging to the enemy ;

(d) Private persons or corporations who, as indicated in the preceding clause, have figured at any time in the "Promulgated Lists" (Listas Proclamadas) issued by the Government of the Republic ; (1) When the Council of Ministers (Consejo de Ministros) resolves, on hearing the interested party and on the basis of clear proofs presented by the Public Ministry (Ministerio Público), that it has been manifestly illegal that they be excepted from expropriation ; and (2) When they have recovered their assets or part of them in virtue of judicial decisions of an interlocutory nature or which do not arise from a final sentence pronounced in ordinary judgment ;

(e) Private persons or corporations of any nationality who have : (1) Belonged at any time to the National Socialist Party, to the Fascist Party, or to any other official political group of the countries at war with the Republic ; or to their branches, affiliated organizations, decentralized bodies and other dependent organizations established in Guatemala ; (2) Co-operated directly with those parties or contributed to their support or propaganda ; (3) Participated in the plebiscites which took place in Guatemalan territorial waters in 1938 on board the steamships *Cordillera* and *Patricia* ; and (4) Emigrated to enemy territory in time of war, unless they went as functionaries, employees or military personnel in the service of Guatemala or of any other of the United Nations. For the purpose of this paragraph alone, it is considered that the state of war began on the 1st of September, 1939 ;

(f) Private persons, whatever their nationality, who, after the 10th of December, 1941, have : (1) Been the representatives, agents or deputies of enemy governments or of their official political bodies ; (2) Been linked politically or economically with any of the enemy governments ; and (3) Deceitfully abused with desire for gain the emergency laws to the benefit of "blocked nationals" (nacionales bloqueados), or who subsequently have lent themselves to deceitful actions in favour of persons subject to expropriation according to this law.—The actions of lawyers and notaries in the legitimate exercise of their professions are expressly excepted ;

and (g) Corporations of any nationality whatsoever who have served the interests of the Axis after the 7th of October, 1938 : (1) As instruments of its economic penetration ; and (2) As entities directly or indirectly linked with the interests of the enemy, as may be apparent from the part he has in them with regard to their deeds of constitution, statutes, finance or function. For the purpose of this clause, it will be deemed that corporations were linked to the enemy when more than 25% of their capital belonged to a person or persons of enemy nationality, or when they have continued to be controlled, directed or administered by persons of enemy nationality after the 10th of December, 1941.

Article 8.—The State will expropriate all the assets, dues and shares, accessory to immovables, or representative in any way of real estate dues or belonging to the corporations which the preceding article enumerates. If the accessories, in whole or in part, belong to persons who are not subject to expropriation in conformity with the present law, these persons will have the right to receive the value of their possessions according to the rule of ordinary expropriation; the sums of money thus paid will not be accounted for in the compensation referred to by Article 4... The monies in cash belonging to the persons enumerated in the preceding article will be held in a special account to be opened in the Bank of Guatemala, and will be destined for the property fund in order to recompense the war claims of the State.

Article 9.—All the assets, dues and shares will also be expropriated of Guatemalans naturalized at any time who, having had as their original nationality that of one of the countries with which the Republic was at war, have lost Guatemalan nationality on account of any of the actions to which Article 12 of the Constitution refers, even though they keep the nationality of any other country, or have become stateless according to the jurisprudence of International Law which Guatemala recognizes.

Article 10.—Persons will be *ipso facto* adjudged to be of German nationality who have, since the 7th of October, 1938: (a) Used a German passport, or the attribute of Germans in any public or attested instrument, it being deemed that such acts constitute an option for that nationality; and (b) Neglected to acquire expressly Guatemalan nationality, having been Germans before that date, in conformity with the Montúfar-von Bergen Treaty and the complementary diplomatic notes, even though they claim to have lost German nationality.

Article 11.—The expropriations already carried out in conformity with previous dispositions of the emergency laws are definitively approved, and cannot be the subject of claims on the part of the interested parties, except with reference to the indemnities which may be due to them in accordance with Article 4 of this law.—In treating of expropriation proceedings in progress at the date of the issue of this decree, counter-claims or petitions of exception will be flatly rejected when they have not already been presented by the interested parties within the terms and with the requirements fixed by the previous emergency laws.—Counter-claims or petitions of exception will also be flatly rejected presented by the individuals to whom number 4 of clause (c) of Article 7 refers, and those of those persons who have renounced any kind of action for the recovery of their assets, dues, or shares, as a necessary requirement prior to their re-entry into the country, allowed by the Ministry of External Relations (Ministerio de Relaciones Exteriores) after the cessation of hostilities.

Article 12.—From the moment when the deed of transference of ownership over an expropriated asset is registered, the term of all credits, dues and shares relating to it will be considered to have expired and to be exigible on that account, unless they also have been expropriated. The State will be responsible for such credits, dues or shares until the sum fixed in the respective deed as the value of the

expropriated assets is determined, and once the indicated sum or the amount of the credit balance if it be the less has been paid or deposited in trust by law, the mortgage in the Registry (Registro) must be cancelled. The sums thus paid will diminish the indemnity corresponding to the interested party in conformity with Article 4.—The State will substitute itself as the proprietor of the credits, dues and shares which are the concern of the expropriated persons against third parties.—Persons not affected by this law, who, before the 10th of December, 1941, have in all good faith entered into agreements concerning parcels of rural immovables which have been expropriated and are not greater than 200 hectares (hectáreas) in extent, by virtue of the promise of purchase or purchase by instalments, and have possessed these uninterruptedly since that time, will be able to regain possession of them by law, provided that the respective operations are duly accounted for in the books of the expropriated persons; but for that purpose it is indispensable that those interested parties should have duly complied with their contractual obligations up to the date of the sequestration of the properties and even afterwards when the State has demanded their compliance, and who present their demands within two years counting from the date upon which this law comes into force. The Procurator-General of the Nation (Procurador general de la Nación) must answer the demands of the interested parties in the affirmative, after an exhaustive investigation of the case, and provided that the respective actions are adjusted strictly to the regulations of this paragraph.

Article 13.—There will be no unresolved balance with respect to the expropriations. In consequence, each person subject to such proceedings will be liable for the action of war of Guatemala to the limit of the total sum of all his possessions at the time when he was or may be expropriated. For its part and in its case, the State will also be liable for claims against it to the value of the property and in accordance with the rules of the preceding article.—When the credits, dues or shares duly embodied in the form of deeds or registered before the 7th of October, 1938, against any property subject to expropriation, have a value greater than the value of the latter, the State, when it shall suit its interests and after an exhaustive investigation of the matter, will be able to hand over to the creditors or delegated persons, answering in the affirmative through the Procurator-General of the Nation (Procurador general de la Nación) to demands initiated in ordinary judgement; or else compensate those creditors or delegated persons in ready cash for the balance resulting in their favour, according to the rules of the Civil Code (Código Civil), except when they also are subject to expropriation, in which case the relevant regulations of the present law will be applied.

With reference to the passive obligations of insurance companies subject to expropriation, the State will be liable to the limit of the assets accounted for in the recognized agencies or branches of the said companies in the Republic, less the administrative expenses incurred by the Government. But interested parties will be able to proceed to their respective actions for unresolved balances in their favour on assets which the insurance company possesses outside the Republic. The State will render all facilities to interested parties so

that they may bring their actions. In every case, the persons insured will hold agreements and will be able to exercise their rights wherever indicated by their policies or contracts with the insurance companies. —The State will be able to continue to carry on the insurance operations to which this article refers through the National Insurance Company (Aseguradora Nacional), when it is established.

Article 14.—The assets which persons subject to expropriation may have acquired after having been subject to such proceedings will not be liable to expropriation, unless: (a) There is any deceit in the acquiring of them; (b) The acquisition has been made in contravention of any of the emergency laws, or when it consists of the payment of capital, interests or fruits received in contravention of the injunctions of Article 2 of legislative decree number 258 and all that is relevant in the remaining emergency laws. For this purpose, the payment of any debt greater than two hundred *quetzales* will come under the terms of this clause, even if this debt has been cancelled by means of entries less than that sum; and (c) At any time since the 3rd of September, 1938, the acquired assets have already belonged to the purchaser, to his relations as determined by law, or to his partners, heads or subordinates in commercial, industrial or agricultural establishments. —Contracts entered into against the tenor of this article are null and void, on the making of a legal deposition.

Article 15.—The trade-marks, patents of inventions and commercial names which shall be or shall have been registered between the 23rd of December, 1941, and the date of this decree in the name of private persons or corporations affected by the present law, are *ipso facto* expropriated in favour of the Nation. The administrative authorities in charge of the branch will proceed, within fifteen days and without need of any further proceedings or declaration, officially to carry out the registration of them in the name of the Nation.—The trade-marks, patents and commercial names expropriated in favour of the Nation remain under special rules, as they have done since the issue of governmental decree number 134, with the provision that no prescription or period of termination or expiry shall run in their disfavour or against their registration.—Registrations of trade-marks, patents and commercial names are *de facto* null and void, non-subsistent and non-existent, which, having figured on or after the 23rd of December, 1941, in favour of persons or bodies affected by the present law, shall have been newly entered after the said date, under any title, under the name of persons or bodies other than the Nation. The administrative authorities of the branch will proceed officially and immediately to cancel such registrations, re-registering the trade-marks, patents and commercial names which are unlawfully protected by them, in the name of the Nation.

CHAPTER III

EXCEPTIONS

Article 16.—The assets of private persons who, having held the nationality of any of the countries with which the Republic was at war, have lost such nationality after the 7th of October, 1938, and

before the 6th of May, 1945, by an official decree of their country of origin, because of acts of political hostility, or of persecutions of a religious or racial character, will be excepted and excluded from the judgments which would apply to them in conformity with clauses (a) and (b) of Article 7, provided that none other of the causes of expropriation foreseen in Chapter II is applicable to them. In consequence, and with the sole exception referred to, persons favoured by this exception will not be expropriated.—Persons of Italian nationality against whom there exists no other reason for expropriation but that of their nationality, in accordance with the present law, are also excepted from expropriation.

Article 17.—Private persons to whom clauses (a) and (b) of Article 7, and Article 10 refer, will be excepted from expropriation, even if they appear or have appeared in the "Promulgated Lists" (Listas Proclamadas), provided that they demonstrate that none other of the reasons for expropriation established in Chapter II is applicable to them, if further they prove fully all the following circumstances: (a) That they have been permanently domiciled in the Republic since 1933 and still are, even though they have been continuously absent from the country up to a period of two years; (b) That they have committed none of the offences which, according to the laws of the Republic, lead to official proceedings, with the exception of petty crimes; (c) That they have formed their patrimony in Guatemala, provided that they demonstrate satisfactorily: that they have invested in the Republic at least two-thirds of the total of their net profits; or that they have contracted matrimony with a Guatemalan or had children of Guatemalan nationality; and (d) That at no time have they registered their children as nationals of their country of origin, nor have asserted this last nationality with respect to their spouse or descendant to the exclusion of Guatemalan nationality or conjointly with it, after the 3rd of September, 1939.

Article 18. Notwithstanding the regulations of the preceding article, exceptions will be granted in no case treating of immovable assets, real estate dues or of dues, shares which in any way whatsoever represent either the former or the latter when such possessions form part of the capital or of the securities of corporations of an agricultural, financial or banking nature, which are subject to expropriation according to this law.—Nor will exceptions be granted treating of shares (acciones o participaciones) of any kind, which represent corporations of an agricultural, financial or banking nature, which are subject to expropriation according to this law.

Article 19. Persons coming under clause (c) of Article 7 who are Guatemalans either by birth or by naturalization or nationals of the countries with which the Republic was not at war, will be completely excepted if they prove that none other of the reasons for expropriation of Chapter II is applicable to them.

Article 20.—When the reason for expropriation implies also that an offence has been committed, the Public Ministry (Ministerio Público) will initiate the appropriate proceedings in the courts of law, and the proceedings of exception may not be carried on until the case has ended.

Article 21.—When, in consequence of legitimate reasons for expropriation, Guatemalan women with sons of the same nationality are affected as regards the whole of their patrimony, they will have the right to keep as their possession an urban property of the type destined exclusively to be a dwelling-house. Minors of Guatemalan nationality will have the same right in analogous cases. They will only have the right to keep as their possession an urban property, when the property is not of the type destined to be a dwelling-house, when the latter is the only one which could be expropriated in conformity with this law.

Article 22.—Assets will not be the subject of expropriation which, by reason of hereditary succession or donation *mortis causa*, have passed or ought to pass to the property of Guatemalan nationals, owing to the death of the principal before the publication of the present law; provided that the expropriation has not been carried out in conformity with the previous emergency laws, and that the heirs or legatees issue a full settlement of accounts in favour of the State covering the sequestration of the assets and the different measures which constituted it.

Article 23.—The declaration of exception will fully exhibit the right to the recovery of the assets included under it in their present state: but it will not be able to originate claims of any kind against the State, against any of its decentralized bodies, or against any person who has participated in the expropriation or in the process of the sequestration of the said assets (except where an offence has been committed), nor about damages, losses or depreciation (*daños y perjuicios*), nor with respect to the restitution of war taxes levied on the assets or on their fruits. The beneficiaries will have the right to the restitution of the fruits, less the costs of administration duly accounted for, according to the net sum which the accounts of the Nation produce. As far as concerns the assets restored for any reason according to this law, the State will expressly renounce the taxes or charges in its favour in excess of those which the said assets sustained at the time of the sequestration, less the costs of administration duly accounted for. The renouncing of all the claims to which the preceding paragraphs refer must be made *ad perpetuam*, in a public or attested document, and before the reception of the assets.

Article 24.—The expropriations which in conformity with the previous emergency laws have been concluded or which have not been the object of counter-claims in time, together with the decisions ordered or which may be ordered in respect of proceedings of exception, will produce in full right in any judgment respecting the recovery of assets the defence of failure to take action, for it will be deemed to be a matter of administrative orders agreed to, in accordance with article 28 of legislative decree 1539; proceedings in progress produce the defence of *litis pendency* in such cases.

Article 25.—The expropriations to be concluded under the present law will be carried out by the fiscal declaration respecting the immovables concerned at the date of their sequestration. In respect of industrial or commercial establishments, of securities, and of other assets, dues and shares, the Committee for the Settlement of War

Affairs (Junta de Liquidación de Asuntos de Guerra) will perform the corresponding valuations, or will accept as valid the commercial value of such assets at the time when they were sequestered or at the time when they were expropriated.

SECTION II.—POLITICAL DEFENCE

CHAPTER I

THE RETURN OF ENEMY NATIONALS OR OF GUATEMALANS WHO EMIGRATED IN TIME OF WAR

Article 26.—The loss of the adopted nationality of naturalized Guatemalans who for any reason whatsoever emigrated to enemy territory in time of war, is *ipso facto* established, unless they went as officials, employees or military personnel in the service of Guatemala or of any other of the United Nations. —For the purposes of this paragraph alone, it is considered that the state of war began on the 1st of September, 1939.

Article 27.—The return to the country during the term of twenty years of every enemy national who, having been domiciled in Guatemala, emigrated during the war to the territory of any of the nations of the Axis, with the following sole exceptions :

(a) Women married to Guatemalans ;

(b) Mothers of Guatemalan children ;

(c) Fathers of Guatemalan children or husbands of Guatemalan women, provided that, after an examination of each individual case, the Ministry of External Relations (Ministerio de Relaciones Exteriores) declares that persons constituting a danger to the security of the continent are not concerned, conforming in this respect with the recommendations of Resolution XXVI of the Emergency Consultative Committee for the Political Defence of the Continent (Comité Consultivo de Emergencia para la Defensa Política Continental), and with Recommendation VII of the Conference of Chapultepec :

and (d) Children of parents of enemy nationality or of naturalized Guatemalans who, at the time when the latter left the country under the circumstances to which the first paragraph of the present article and the preceding article refer were minors, provided moreover that they did not serve in the armed forces of the Axis countries.

CHAPTER II

DEPORTATIONS

Article 28.—The following may be expelled from the territory of Guatemala : (a) Nationals of any of the countries of the Axis who have participated in espionage, sabotage or other similar activities directed against any American country, or who in one form or another have been the servants of the governments of the Axis responsible for the carrying out of such activities ; (b) German ex-officials or ex-consuls who still remain on the territory of the Republic ; (c) Foreigners who took a leading part in the training, organization, financing, administration, direction or functioning of the Nazi Party or of any of its dependent organizations ;

and (d) Foreigners shown to be connected with subversive activities or active propaganda in favour of Nazism, Fascism, Falangism or Communism in any of their tendencies to infiltration and expansion in the American continent.

Article 29.—The Government, through the Ministry of External Relations (Ministerio de Relaciones Exteriores), will order in each case adequate measures to bring about the expulsion, in conformity with the Law of Alienship (Ley de Extranjería).

SECTION III.—PROCEDURE

CHAPTER I

THE COMMITTEE FOR THE SETTLEMENT OF WAR AFFAIRS (JUNTA DE LIQUIDACIÓN DE ASUNTOS DE GUERRA), AND QUESTIONS OF COMPETENCE

Article 30.—A Committee for the Settlement of War Affairs (Junta de Liquidación de Asuntos de Guerra) is set up, to consist of the following members: a delegate of the Tribunal and Comptrollership of Accounts (Tribunal y Contraloría de Cuentas), who will preside over it; the president of the Relations Committee (Comisión de Relaciones) of the Congress of the Republic; the president of the Monetary and Banking Committee (Junta Monetaria y Bancaria); the manager of the Bank of Guatemala; and three delegates of the Executive designated at a meeting of the Council of Ministers (Consejo de Ministros).—The members of the Committee (Junta) will be remunerated according to the system of payment of salary by the day; they will fulfil their office *ad honorem* when they are public employees or functionaries remunerated for another reason.—The delegate of the Tribunal and Comptrollership of Accounts (Tribunal y Contraloría de Cuentas) is charged with the summoning of the Committee (Junta) for its first session, in agreement with the Executive, within fifteen days of the publication of this law. In that first session he will submit for discussion projected rules and regulations for the government of the activities of the Committee (Junta) in conformity with this decree; the rules and regulations must be approved by the Executive through the action of the Minister of the Treasury (Ministerio de Hacienda) and published in the Official Journal (Diario Oficial).

Article 31.—The Committee (Junta) will have the following powers:

(a) to formulate according to the established rules special proceedings in order to fix the sum of the claims of Guatemala against Germany and her satellites by reason of expenses, damages, losses and depreciation (daños y perjuicios) direct or indirect, tangible and intangible, caused to the Republic by its participation in the second world war;

(b) To acquaint themselves with the claims made against the enemy by Guatemalans in conformity with Article 2, to investigate them, to demand the relevant evidence, and to reject the said claims as groundless or to fix the sum relating to them for the purposes of Article 34;

(c) To act as assessors to the Ministries of External Relations (Ministerio de Relaciones Exteriores) and of the Treasury and Public Credit (de Hacienda y Crédito Público) in all the cases in respect of which they shall consult it and which relate to the enemy and his collaborators, or to measures of political or economic defence stemming from the war;

(d) To nominate lawyers, experts, accountants or valuers, when, in conformity with Article 25 or the other provisions of this law, it is necessary to establish special sums or stipulations with respect to claims ;

(e) To demand to be shown all kinds of public and official documents, for the purpose of proceeding to examine them. A public functionary or private person who refuses to exhibit the documents or to furnish the facts requested of him, will commit the offence defined and punished by Article 259 of the Criminal Code (Código Penal).—Diplomatic documents of a confidential nature and documents referring to military operations will be exhibited at the discretion of the Ministries of External Relations (Ministerio de Relaciones Exteriores) and of National Defence (de la Defensa Nacional), respectively ;

(f) To declare, basing themselves on the formulated proceedings and on the evidence submitted by the interested parties, the amount of the war claims of the Republic, including legal actions to the benefit of Guatemalans in conformity with Article 2 ;

and (g) To submit for the approval of Congress within seven months counting from the promulgation of this law, the duly documented statement made in conformity with the preceding clause.

Article 32.—Before announcing their decision, the Committee (Junta) will consult and obtain the opinion of the Ministries of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) and of External Relations (Relaciones Exteriores), for which purpose the file of documents will be sent by turn for the maximum term of twenty days to each Ministry. Subsequently, the Committee (Junta) will pronounce its decision within the term indicated by this law, accompanying it with the relevant documents ; the judgment will be announced according to a simple majority of votes.

Article 33.—Persons of Guatemalan nationality having claims against the enemy in conformity with Article 2 will present them to the Committee (Junta) accompanied by the respective justificatory documents, if they possess them. If there is evidence to be rendered, the Committee (Junta) will appoint for the interested parties a term of a month at the most, or of three months if the evidence is to be obtained from abroad, in which they shall produce them, and will inform the Public Ministry (Ministerio Público). When the term has expired and the evidence has been collected, copies will be sent in turn for ten days in each case to the Ministry of External Relations (Ministerio de Relaciones Exteriores), to that of the Treasury and Public Credit (de Hacienda y Crédito Público) and to the Procurator-General of the Nation (Procurador general de la Nación), and subsequently a decision will be announced in conformity with clause (b) of Article 31. During the respective term, the interested party must propose and render expert evidence to fix the sum of his claim ; the experts will be nominated : one by the claimant, another by the Public Ministry (Ministerio Público) and the third by the Committee (Junta), in case of disagreement.

Article 34.—Once the Committee (Junta) has determined that the claim is according to law and has fixed the sum of the claim, the decision

will be passed in writing to the Ministry of the Treasury (Ministerio de Hacienda) for the latter to issue the appropriate order for payment charged to extraordinary expenses. Account will be kept of the payment for the purposes of Article 4 of this law.

Article 35.—No Guatemalan who comes under the case foreseen by Article 7, clause (e), number 4, will have the right to present war claims, basing himself on Article 2 of this law.

Article 36.—The Ministry of the Treasury (Ministerio de Hacienda) is empowered to give leading decisions in the first instance, in the following cases: (a) Counter-claims awaiting decision in conformity with previous legal decisions, provided that the interested parties present the relevant petition of exception beforehand in accordance with the provisions of this law; (b) Petitions of exception touching expropriation proceedings initiated after the date on which this law comes into force; and (c) Counter-claims against new proceedings.

Article 37.—The Ministry of the Treasury (Ministerio de Hacienda) will also have the following powers: (a) To pass petitions of exclusion to the Ministry of External Relations (Ministerio de Relaciones Exteriores) in cases in which it is necessary to determine beforehand the nationality of the interested parties, so that that office may make the relevant declaration within the term of ten days on the basis of evidence produced and consulting beforehand the Public Ministry (Ministerio Público); (b) To recommend to the Ministry of External Relations (Ministerio de Relaciones Exteriores) the cancellation of nationality when in conformity with the law; (c) To pass series of documents to the Public Ministry (Ministerio Público) in the cases and for the purposes referred to by Articles 7, clauses (d) and (b), 14 and 20 of the present decree; (d) To nominate, as far as it is concerned, lawyers, technicians and experts as necessary for the prompt and efficacious application of the Law for the Settlement of War Affairs (Ley de Liquidación de Asuntos de Guerra); and (e) To execute the definitive decisions reached in respect of the different proceedings, through the Procurator-General of the Nation (Procurador general de la Nación).

Article 38.—In everything relating to the proceedings and the rules of procedure which are not expressly foreseen by this law, as also as concerns impediments, excuses or recusations, the Committee (Junta) or in its case the Ministry of the Treasury (Ministerio de Hacienda) will be able to apply in a supplementary manner, in order: the Law Concerning Disputes Directed against the Administration (Ley de lo Contencioso-Administrativo), the Constituent Law of the Judicial Body (la Constitutiva del Organismo Judicial) and the Code of the Institution and Prosecution of Civil and Mercantile Proceedings (Código de Enjuiciamiento Civil y Mercantil).

CHAPTER II

PUBLIC MINISTRY (MINISTERIO PÚBLICO)

Article 39.—The Procurator-General of the Nation (Procurador general de la Nación) will be a party to all the proceedings examined

before the Committee (Junta) and before the Ministries of External Relations (Ministerio de Relaciones Exteriores) and of the Treasury and Public Credit (de Hacienda y Crédito Público). He will send to the Public Ministry (Ministerio Público) certificates relating to all the verdicts pronounced, in order that the expropriation proceedings can be continued or concluded when there is no counter-claim.

Article 40.—The Procurator-General of the Nation (Procurador general de la Nación) will continue to exercise the powers which governmental decree number 3138 and congressional decree number 114 confer upon him, in conformity with the proceedings stipulated by the said decrees relating to the continuation of the expropriation proceedings already begun and to those which may be begun in the future, provided that there be no counter-claim and when the said laws do not contradict the present one.—He will also officially investigate the cases referred to by clause (d) of Article 7, proceeding as indicated by this law when in conformity with the relevant evidence it is necessary to re-apply the expropriation procedure.—Petitions of exception, counter-claims and the procedure of both will be regulated according as the present decree disposes in that respect.

Article 41.—The Procurator (Procurador) is bound to present before the Tribunal established for the Settlement of Disputes against the Administration (Tribunal de lo Contencioso-Administrativo) and before the Supreme Court of Justice (Corte Suprema de Justicia) when necessary, appeals against the decisions dictated by the Ministry of the Treasury (Ministerio de Hacienda) and the Tribunal established for the Settlement of Disputes against the Administration (Tribunal de lo Contencioso-Administrativo), when the said decisions are in any way to the disadvantage of the interests of the State. The Procurator (Procurador) will be directly responsible for the carrying out of this article.

CHAPTER III

DECISIONS OF EXCEPTION

Article 42.—Every person who has presented his petition of exception in time in conformity with the preceding emergency laws must repeat it before the Ministry of the Treasury within the term of fifteen days counting from the date on which this law comes into force and in conformity with it, indicating the state of the proceedings and the public office in which it is to be found. When the petition has been received, the Ministry (Ministerio) will demand its preceding circumstances. With reference to these and if the petition of exception comes within the cases foreseen in Chapter III, Section I, it will decree it to be admissible. If the proceedings were already concluded and the evidence rendered in conformity with the previous emergency regulations, the Ministry will simultaneously appoint a day for the trial; in a contrary case, the hearings which the Ministry thinks relevant to the conclusion of the proceedings will be agreed upon and, if the proceedings be according to law, the legal questioning agreed upon up to the term of fifteen days. When the hearings have been carried out or the proof concluded, a day for the trial will be appointed.

Article 43.—The expropriatory proceedings will be initiated by a resolution in which the Ministry of the Treasury (Ministerio de Hacienda) shall dispose that personally or through his legal representative, the affected person shall deliver up before the Government Clerk (Escribano del Gobierno) a deed of transference of ownership in favour of the Nation. This decision will be published in the Official Journal (Diario Oficial) three times within the term of fifteen days, the person affected being notified also when possible.—The petitions of exclusion referred to by clause (b) of Article 36 must be presented within fifteen days of the publication of the edict. - The Ministry will subsequently request the preceding circumstances from the Public Ministry (Ministerio Público), which must furnish them immediately ; and will simultaneously determine the beginning of the taking of evidence for the term of fifteen days which must not be extended, and when this term has elapsed a copy will be passed for three days in each instance to the Ministries of External Relations (Ministerio de Relaciones Exteriores) and of Agriculture (de Agricultura) and to the Procurator-General of the Nation (Procurador general de la Nación). When the hearings have been concluded a day will be appointed for the trial.

Article 44.—As soon as the admissibility of a petition of exception is declared, the expropriation proceedings must be suspended, for which purpose the Committee (Junta) will issue the appropriate authority to the Procurator-General of the Nation (Procurador general de la Nación) and the Government Legal Office (Escribanía del Gobierno).

Article 45.—All the terms designated by this law may not be extended. Persons who do not take the opportunity of legally asserting their rights will not be able to bring any judicial or extrajudicial claim against the expropriation, for they will be deemed to have given their consent to it.

Article 46.—The final decisions which close cases of exception (together with expropriations already carried out in favour of the States to which Article 11 refers) are considered to close the case ; among which are expressly included expropriations of shares of any kind realized in conformity with the law.

Article 47.—Recourse to the appellate court against definitive judgments pronounced by the Tribunal for the Settlement of Disputes against the Administration (Tribunal de lo Contencioso-Administrativo) is admissible, as established by Article 164 of the Constitution ; but the Supreme Court (Corte Suprema) before demanding the original proceedings will require the appellant to deposit in the Treasury of Judicial Funds (Tesorería de Fondos de Justicia), within the immutable term of five days, from two hundred to two thousand *quetzales*, according to the importance of the transaction in the judgment of the Tribunal, a sum which the appellant will forfeit to the judicial funds if the appeal be flatly rejected, declared untenable or held to have been abandoned. As far as concerns the execution of verdicts in these cases, it will be in accordance with the provisions of clause (e) of Article 37 of this law. --An appeal will be held to have been abandoned if, within the indicated term, the appellant has failed to present to the Supreme Court of Justice (Corte Suprema de la Justicia) the statement that he has paid the deposit required of him.

Article 48.—The Supreme Court of Justice (Corte Suprema de la Justicia) must judge the appeals basing itself on the prescriptions of this law; the dispositions of common law (derecho común) shall only be applied in a supplementary manner, when they are not opposed to the present law.

CHAPTER IV

PROCEEDINGS FOR RE-ENTRY INTO THE COUNTRY AND DEPORTATIONS

Article 49.—Petitions concerning return to the country in favour of persons comprehended in clauses (a), (b), (c) and (d) of Article 27 will be presented directly to the Ministry of External Relations (Ministerio de Relaciones Exteriores), which will determine what is in accordance with the law, first justifying the measures necessary, consulting its Juridical Office (Oficina Jurídica) and the Public Ministry (Ministerio Público).

Article 50.—The Public Ministry (Ministerio Público) or any Guatemalan citizen may present themselves before the Ministry of External Relations (Ministerio de Relaciones Exteriores), requesting the deportation from national territory of any foreigner who comes under any of the cases foreseen by Article 28 of this law. These denunciations will be officially investigated by the Ministry of External Relations (Ministerio de Relaciones Exteriores).

Article 51.—The petitions to which the three preceding articles refer will be proceeded with in accordance with the respective rules and regulations.—The decisions decreed will be definitive and there can be no appeals against them.

Article 52.—If the Ministry of External Relations (Ministerio de Relaciones Exteriores) agree to the deportation, it will decree the complementary decisions in conformity with it, in conformity with Article 29.—The decision will be communicated to the Consuls of the Republic, in order that they may thereafter abstain from granting entry visas into the country or any other travel document (documento de viaje) in favour of the person affected.

Article 53.—Provisionally and for the purpose of the action of the State already put into force, and about to be put into force, whilst the Congress approves the decision to be made by the Committee (Junta) in accordance with clause (g) of Article 31, the war claims of Guatemala against Germany and co-belligerent countries is fixed at the sum of twenty-five million quetzales.

CHAPTER V

GENERAL AND NON-PERMANENT DECISIONS

Article 54.—For a term of six years counting from the promulgation of this law, the assets expropriated in conformity with the present decree and those which in any form the State may transfer in conformity with the last paragraph of Article 93 of the Constitution, will be inalienable.

Article 55.—The Congress will include the items relevant to the Committee for the Settlement of War Affairs (Junta de Liquidación de Asuntos de Guerra) in the budget corresponding to the next fiscal year. The expenses caused by its setting up, as also the salaries corresponding to the days still to run in the present fiscal year, will be covered at the charge of the Entry of Extraordinary Treasury Expenses (Partida de Gastos Extraordinarios de Hacienda).—The relevant transfers will be made with reference to the fact that, to give force to this article, which also figures in the projected Law for the Settlement of War Affairs (Ley de Liquidación de Asuntos de Guerra) vetoed by the Executive, items of extraordinary expenses were created or increased on behalf of the Ministries of External Relations (Ministerio de Relaciones Exteriores) and of the Treasury (de Hacienda).

Article 56.—Private persons against whom any of the expropriation proceedings to which this law refers are initiated, and in the case of their appeals of exception having been admitted, will have the right to enjoy a pension of one hundred *quetzales* per month, not repayable by them to the State, if besides proving that they have no means of subsistence they are: (a) Women; (b) Men of more than sixty years of age; (c) Incapacitated persons and minors of both sexes.—The persons affected will enjoy also a pension of twenty-five *quetzales* per month in respect of each of their children who is a minor and who is under their parental jurisdiction.—The pensions to which this article refers will be paid monthly in advance, at the charge of the entry of Extraordinary Expenses of the Ministry of the Treasury (partida de Extraordinarios del Ministerio de Hacienda), and will be suspended seven months after the present law comes into force, or before if a decision is made in respect of the relevant proceedings.—The pensions to which the first paragraph of this article refers will be reduced to half of the sum stipulated if the possessions subject to the proceedings of expropriation amount to less than fifteen thousand *quetzales*.—The Committee (Junta) will fix in their rules and regulations the manner in which the pensions must be sought, it being understood that the total proceedings required to obtain them will not extend for more than ten days. When it renders a judgment of its tasks in conformity with clause (g) of Article 31, the Committee (Junta) will propose to the Congress the procedure for and the financing of an adequate system of pensions in respect of the persons to which this article refers, and those who have a right to earnings or profits derived from the joint income of spouses (*gananciales*) or to allowances with respect to their legal links with expropriated persons.

Article 57.—The Committee (Junta) may agree on its own internal rules and regulations or adopt those which regulate the Courts of Justice.

Article 58.—When the Committee (Junta) dissolves itself in conformity with the provisions of this law, its archives will stay in the possession of the Ministry of the Treasury (Ministerio de Hacienda) for due conservation and custody.

Article 59.—The cases still awaiting decision on the expiry of the term of office fixed for the Committee (Junta) will be passed to the Ministry of the Treasury (Ministerio de Hacienda) to be concluded in conformity with the measures of this law.

Article 60.—Governmental decrees 3134, 3135 and 3138 and legislative decree 114, are annulled with the exception referred to in Article 37 of this law, together with all the emergency regulations opposed to the present law.

Article 61.—For reasons of public order, this decree will be retro-active up to the 7th day of October, 1938, as was declared of national utility and necessity and was voted and approved in conformity with Article 49 of the Constitution.

Pass to the Executive Body for publication and fulfilment.

Given in the Palace of the Legislative Body: in Guatemala, on the twenty-fifth day of the month of May, one thousand nine hundred and forty-nine, the fifth year of the Revolution.

MARIO MONTEFORTE TOLEDO, President.—M. A. RODAS, Secretary.—OSCAR A. SIERRA, Secretary.

National Palace: Guatemala, thirteenth of July, one thousand nine hundred and forty-nine. Let it be published and fulfilled.

JUAN JOSÉ AREVALO.—The Minister of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público), OSCAR BARRIOS CASTILLO.—The Minister of External Relations (Ministro de Relaciones Exteriores), E. MUÑOZ MEANY.

Annex 15

LEGISLATIVE DECREE NUMBER 689 OF THE
31st OCTOBER 1949

THE CONGRESS OF THE REPUBLIC OF GUATEMALA,

CONSIDERING :

That in order that decree 630 of the Congress be correctly applied, it is convenient that some of the statements which could give rise to doubts in respect of its interpretation and procedure should be clarified ;

CONSIDERING :

That the principle and theory underlying clause (b) of Article 10 of decree number 630 of the Congress are identical to those upheld by decree 281 of the Congress, a question which ought to be clearly resolved ;

CONSIDERING :

That whilst the proceedings and closure of each of the cases regulated by decree number 630 of the Congress are in progress, it is appropriate that maintenance allowances be assigned to the persons subject to expropriation according to the law referred to ;

THEREFORE,

DECREES :

Article 1—Article 1 of decree 630 of the Congress to read as follows :
 "Article 1.—Within ten months of the promulgation of this law, Guatemala will fix the sum of its claims against Germany and her satellites by reason of expenses, damages, losses and depreciation (daños y perjuicios) direct and indirect, tangible and intangible, caused to the Republic by its participation in the second world war."

Article 2.—To Article 8 of decree 630 of the Congress is added a final paragraph, as follows :

"Assets subject to expropriation proceedings in conformity with the present law may be sequestered by the State."

Article 3.—Article 10 of decree 630 of the Congress to read as follows :

"Article 10.—Persons will be adjudged *ipso facto* to be of German nationality :

- (a) Who after the seventh of October, one thousand nine hundred and thirty-eight, have used a German passport or the attribute of Germans in any public or attested instrument, it being deemed that such acts constitute an option for that nationality ; and
- (b) All those who shall have possessed the nationality of any of the countries with which the Republic was at war, if, before the seventh of October, one thousand nine hundred and thirty-eight, they shall not have expressly acquired Guatemalan nationality, in accordance with the laws.

"As commanded by decree 281 of the Congress, all Germans born in Guatemala during the time when the Montúfar-von Bergen treaty and the complementary diplomatic notes were in force, continue *ipso jure* to possess the said German nationality."

Article 4.—Article 30 of decree 630 of the Congress to read as follows :
 "Article 30.—A Committee for the Settlement of War Affairs (Junta de Liquidación de Asuntos de Guerra) is set up, to consist of the following members : two delegates of the Tribunal and Comptrollership of Accounts (Tribunal y Contraloría de Cuentas), one of whom, designated by the said Tribunal, will be nominated as President ; a delegate representing the Congress of the Republic ; a delegate of the Monetary Committee (Junta Monetaria) and three delegates of the Executive designated at a meeting of the Council of Ministers (Consejo de Ministros).

"The members of the Committee will be remunerated according to the system of payment of salary by the day ; they will fulfil their office *ad honorem* when they are public employees or functionaries remunerated for another purpose.

"The delegate nominated as President by the Tribunal and Comptrollership of Accounts (Tribunal y Contraloría de Cuentas) is charged with the summoning of the Committee for its first session, in agreement with the Executive, within fifteen days of the publication of this law. In that first session he will submit for discussion projected rules and regulations for the government of the activities of the Committee in conformity with this decree ; the rules and regulations must be approved by the Executive through the action of the Ministry of the Treasury (Ministerio de Hacienda) and published in the Official Journal (Diario Oficial)."

Article 5.—Clause (g) of Article 31 of decree number 630 of the Congress to read as follows :

“(g) To submit for the approval of Congress within twelve months counting from the promulgation of this law, the duly documented statement, made in conformity with the preceding clause.”

Article 6.—Article 36 of decree number 630 of the Congress to read as follows: “Article 36. The Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) is empowered to give final decisions in the following cases :

- (a) Counter-claims awaiting decision in conformity with previous legal decisions, provided that the interested parties present the relevant petition of exception beforehand in accordance with the provisions of this law ;
- (b) Petitions of exception or counter-claims touching expropriation proceedings instituted after the date on which this law comes into force ;
- (c) In the deciding of counter-claim proceedings which were not repeated in conformity with the present law ; and in the deciding of expropriation proceedings initiated whilst the previous emergency laws were in force, for which purpose the proceedings must be continued.”

Article 7.—Article 44 of decree number 630 of the Congress to read as follows : “Article 44.—As soon as the admissibility of a petition of exception is declared, the expropriation proceedings must be suspended, for which purpose the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) will issue the appropriate authorizations to the Procurator-General of the Nation (Procurador general de la Nación), and to the Government Legal Office (Escribanía del Gobierno).”

Article 8.—Article 56 of decree 630 of the Congress to read as follows : “Article 56. —Private persons against whom any of the expropriation proceedings to which this law refers are initiated will have the right to enjoy a monthly pension if, besides proving in an authentic manner that they have no means of subsistence, they are :

- (a) Women ;
- (b) Men of more than sixty years of age ; and
- (c) Incapacitated persons or minors of both sexes.

“The pension will be fixed by the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) up to a sum of one hundred *quetzales* ; and the persons affected will enjoy also a pension of twenty-five *quetzales* per month in respect of each of their children who is a minor and who is under their parental jurisdiction. This right may not be enjoyed unless the proceeds or rents of the asset or assets subject to expropriation proceedings show favourable balances ; the said pensions will be granted being a charge on the indemnification concerned and will be in proportion to the value of the assets to be expropriated, it being taken into consideration that the sums which have been furnished and the estimate of those to be furnished shall

not exceed 30 per cent of the declared value of those assets. In case of a declaration of exception and before the handing over of the assets, the State will be credited with the sums provided as pensions and the respective quittance and a renunciation *ad perpetuam* of all claims against it will be issued in its favour."

Article 9.—Article 58 of decree number 630 of the Congress to read as follows: "Article 58.—The Committee will be dissolved, by means of a formal act, at the latest within thirty days after the approval by the Congress of the Republic of the general report concerning the tasks of the Committee and of the final declaration required by the law. Within the term referred to in this article, the Committee will transfer to the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) in a detailed inventory and with the intervention of the Tribunal and Comptrollership of Accounts (Tribunal y Contraloría de Cuentas) its archives, equipment and other working stock."

Article 10.—The present decree will come into force on the day of its publication in the Official Journal (Diario Oficial).

Pass to the Executive Body for its publication and fulfilment.

Given in the Palace of the Legislative Body: in Guatemala, on the thirty-first of October, one thousand nine hundred and forty-nine, the sixth year of the Revolution.

MARIO MONTEFORTE TOLEDO,

President.

M. A. RODAS,

Secretary.

FRANCISCO J. SILVA FALLA,
Secretary.

Annex 16

LEGISLATIVE DECREE NUMBER 763 OF THE
2nd OCTOBER 1950

THE CONGRESS OF THE REPUBLIC OF GUATEMALA,

CONSIDERING :

That, for the full and due application of decree number 630 of the Congress and its amendment, it is convenient to lengthen the term contemplated in Article 1 of the said law, so that the assets (patrimonio) of enemy nationality may be liquidated as soon as possible ;

CONSIDERING :

That, in order that war affairs may be speedily settled, it is convenient to determine what appeals against the decisions issued by the Com-

mittee for the Settlement of War Affairs (Junta Liquidadora de Asuntos de Guerra) are in progress ;

CONSIDERING :

That, in order to determine as exactly as possible the total sum of the assets (patrimonio) of enemy nationality, it is proceeding to draw up the corresponding inventories :

THEREFORE,

DECREES :

The following alterations to the Law for the Settlement of War Affairs (Ley de Liquidación de Asuntos de Guerra) (decrees numbers 630 and 689 of the Congress of the Republic) :

Article 1.—Article 1 of decree 689, to read as follows : “Guatemala will fix the sum of its claims against Germany and her satellites, by reason of expenses, damages, losses and depreciation (daños y perjuicios) direct and indirect, tangible and intangible, caused to the Republic by its participation in the second world war.”

Article 2.—To Article 24 of decree 630 is added the following :

“Article 24.—Judgments or proceedings instituted or proceeding relating to the assets of persons included in the “Promulgated Lists” (“Listas proclamadas”), are null and void *ipso jure*, unless there has been a previous definite declaration of exception issued by competent authority in conformity with the previous emergency laws or with the present law, provided that the Public Ministry (Ministerio Público) has not been granted intervention in the said judgments or proceedings.

“The Supreme Court of Justice is charged with distributing widely to all the courts of the Judicial Body (Organismo Judicial) the full nominal lists of assets and persons subject to expropriation proceedings who or which have not as yet been legally excepted.

“The courts of justice which in the future do not grant due intervention to the Public Ministry (Ministerio Público) in the judgments or proceedings of any kind which affect persons or assets subject to expropriation, in favour of whom or of which no final decision of exception has been issued, will commit the offence of collusion (prevaricato).”

Article 3.—Clause (a) of Article 31 of decree 630 to read as follows :

“(a) To formulate according to the established rules special proceedings in order to fix the sum of the claims of Guatemala against Germany and her satellites by reason of expenses, damages, losses and depreciation (daños y perjuicios), direct and indirect, tangible and intangible, caused to the Republic by its participation in the second world war, and to proceed to draw up the inventory of all the assets, dues and shares (acciones) expropriated from Germans.”

Article 4.—Article 4 of decree 689 to read as follows :

“Article 4.—Article 30 of decree 630 of the Congress to read as follows :

Article 30.—A Committee for the Settlement of War Affairs (Junta de Liquidación de Asuntos de Guerra) is set up, to consist of the following members: two delegates of the Tribunal and Comptrollership of Accounts (Tribunal y Contraloría de Cuentas), one of whom, as designated by the same Tribunal, will be nominated as President; one delegate representing the Congress of the Republic; one delegate of the Monetary Committee (Junta Monetaria); and three delegates of the Executive designated at a meeting of the Council of Ministers (Consejo de Ministros). The Congress will also nominate a substitute for their delegate, in cases of temporary absence.

"The members of the Committee will be remunerated according to the system of payment of salary by the day; they will fulfil their office *ad honorem* when they are public employees or functionaries remunerated for another reason.

"The delegate nominated as President by the Tribunal and Comptrollership of Accounts (Tribunal y Contraloría de Cuentas) is charged with the summoning of the Committee for its first session, in agreement with the Executive, within fifteen days of the publication of this law. In that first session he will submit for discussion projected rules and regulations for the government of the activities of the Committee in conformity with this decree; the rules and regulations must be approved by the Executive, through the action of the Ministry of the Treasury (Ministerio de Hacienda) and published in the Official Journal (Diario Oficial)."

Article 5.—Clause (g) of Article 5 of decree 689 to read as follows:

"(g) To submit for the approval of Congress by the 31st of January, 1951, at the latest, the duly documented statement made in conformity with the preceding clause."

Article 6.—Article 32 of decree 630 to read as follows:

"Article 32.—In order that the statement referred to in clause (g) of the preceding article may be more fully documented, the Committee will consult and obtain the opinion of the Ministries of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público) and of External Relations (Relaciones Exteriores), and for this purpose the file will be sent by turn for the maximum term of 20 days to each Ministry. Nevertheless, even if the opinion of the said Ministries is lacking, not having been announced in time, the Committee will pronounce its decision within the term indicated by this law, accompanying it with the relevant documents; the judgment will be announced according to a simple majority of votes."

Article 7.—Article 33 of decree 630, to read as follows:

"Article 33.—Persons of Guatemalan nationality having claims against the enemy in conformity with Article 2 will present them to the Committee, accompanied by the respective justificatory documents, if they possess them. If there is evidence to be rendered, the Committee will appoint for the interested parties a term of a month at the most, or of three months if the evidence is to be obtained from abroad, in which they shall produce it, and will inform the Public Ministry (Ministerio Público). When the term has expired and the evidence has been collected, copies will be sent in turn for ten days in each

case to the Ministry of External Relations (Ministerio de Relaciones Exteriores), to that of the Treasury and Public Credit (de Hacienda y Crédito Público) and to the Procurator-General of the Nation (Procurador general de la Nación), and subsequently a decision will be announced in conformity with clause (b) of Article 31. During the respective term, the interested party must propose and render expert proof to fix the sum of his claim; the experts will be nominated: one by the claimant, another by the Public Ministry (Ministerio Público), and the third by the Committee, in case of disagreement. For the purposes of claims in marks, the exchange rate will be fixed at twenty *centavos de quetzal* (Q. 0.20) per mark. The committee will be empowered to proceed officially in case of default by the interested parties or by the offices officially intervening, so that the proceedings may be continued and terminated as quickly as possible. In consequence, when the notifications or corresponding hearings have lapsed without having been completed, the Committee will consider them to have been renounced and will order the proceedings to be suspended whenever the issue arises. For the purposes of this article, legal evidence alone will be admissible.

"The following appeals are applicable against the decisions issued by the Committee in respect of the claims to which this article refers:

- 1.—Of repeal in respect of orders concerned with proceedings alone;
- 2.—Of restoration, clarification and amplification in respect of proceedings; and
- 3.—Of clarification and amplification in respect of a final decision.

Apart from these appeals, no other appeal will be admitted."

Article 8.—Article 34 of decree 630 to read as follows:

"Article 34.—Once the Committee has determined that the claim is according to law and has fixed the sum of the claim, the sum will be accounted for for the purposes of Article 31, clause (j), of the present law, and it will pass both decisions to the Ministry of the Treasury and Public Credit (Ministerio de Hacienda y Crédito Público).

"Once the decision determining all the claims referred to by Article 2 of the law have been finally reached, and the total sum of the same established, the Ministry of the Treasury (Ministerio de Hacienda) will make the respective payments, contracting for that purpose a public debt guaranteed by up to five per cent of the gross annual income of the National Estates (Fincas Nacionales) for a period not exceeding five years.

"The Ministry of the Treasury (Ministerio de Hacienda) will transmit to the Congress of the Republic a project for a law establishing this debt, within sixty days following the establishing of the total sum of the claims to which this article refers."

Article 9.—Article 41 of decree 630, to read as follows:

"Article 41.—The Procurator (Procurador) is bound to present before the Tribunal established for the Settlement of Disputes against the Administration (Tribunal de lo Contencioso-Administrativo) and before the Supreme Court of Justice, when necessary, appeals against the decisions issued by the Ministry of the Treasury (Ministerio de Hacienda) and the Tribunal established for the Settlement of Disputes

against the Administration (Tribunal de lo Contencioso-Administrativo), when the said decisions are in any way to the disadvantage of the interests of the State.

"He will be equally bound to present all the appeals recognized by this law to the Committee for the Settlement of War Affairs (Junta de Liquidación de Asuntos de Guerra), in respect of decisions issued by the latter contrary to the interests of the State ; and all the exceptions and appeals instituted by this law and by the ordinary laws in the judgments and proceedings which may be instituted in the courts of justice of the Republic which in any way affect the assets (patrimonio) of persons subject to expropriation in whose favour no final decision has yet been issued as established by the present decree.

"The Procurator (Procurador) will be directly responsible for the carrying out of this article before the law."

Article 10.—The present decree will come into force on the day following its publication in the Official Journal (Diario Oficial).

Pass to the Executive Body for its publication and fulfilment.

Given in the Palace of the Legislative Body : in Guatemala, the second of October, one thousand nine hundred and fifty, the sixth year of the Revolution.

GUILLERMO FONSECA P.,
President.

MARCO A. VILLAMAR C.,
Secretary.

J. A. AMEZQUITA,
Secretary.

National Palace : Guatemala, sixth of October, one thousand nine hundred and fifty.

Let it be published and fulfilled.

JUAN JOSÉ AREVALO.

The Minister of the Treasury and Public Credit (Ministro de Hacienda y Crédito Público), A. PADILLA.

The Minister of External Relations (Ministro de Relaciones Exteriores), I. GONZALEZ AREVALO.

Annex 17

LEGISLATIVE DECREE NUMBER 811 OF THE 23rd MAY 1951

THE CONGRESS OF THE REPUBLIC OF GUATEMALA,

CONSIDERING :

That notwithstanding the resolution approved by this Body (Organismo) on the 15th of May, 1950, concerning the request for interpretation of Articles 17 and 18 of the decree of the congress number 630, presented by the Public Ministry (Ministerio Público), Article 18 of the collection of laws referred to has continued to be applied incorrectly ;

CONSIDERING :

That for the correct application of the decree of the congress number 630 and for the better defence of national interests, it is necessary to interpret the sense and scope of Article 18 of the decree referred to ;

THEREFORE,

DECREES :

Article 1.—Article 18 of the decree of the congress number 630 applies alike to corporations and to private persons.

Article 2.—The present decree will come into force on the day of its publication in the Official Journal (Diario Oficial).

Pass to the Executive Body (Organismo Ejecutivo) for publication and fulfilment.

Given in the Palace of the Legislative Body (Organismo Legislativo), in Guatemala, on the twenty-third of May one thousand nine hundred and fifty-one, seventh year of the Revolution.

ROBERTO ALVARADO FUENTES, President.—FERMIN B. GARCIA Z., Secretary.—ALFONSO FORTUNY, Secretary.

National Palace : Guatemala, twenty-fourth of May one thousand nine hundred and fifty-one.

Let it be published and fulfilled, ARBENZ.—The Minister of Government (Ministro de Gobernación), RAMIRO ORDONEZ PANIAGUA.
