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Before the Senate Foreign Relations Committee
Holocuast-Era Insurance Restitution After ICHEIC
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Mr. Chairman, Ranking Member Lugar, I want to thank you, and the members of the Committee, for inviting me here today to testify on the very important issue of Holocaust-era insurance claims. For many years, the Foreign Relations Committee has focused on Holocaust compensation and restitution matters. You have provided a strong voice of moral leadership on a wide variety of Holocaust-related issues, and I therefore thank each of you for that leadership. Senator Nelson, your leadership as Insurance Commissioner of Florida was indispensable in highlighting the importance of addressing Holocaust-era insurance policies and providing justice to victims and their families.

Over the years, I have testified before various Committees of the Congress 13 times on Holocaust issues, including in my capacity as the Special Representative of the President and the Secretary of State for Holocaust Issues during the Clinton Administration. In that capacity I negotiated agreements with the German, Swiss, Austrian, French, and other European governments that have resulted in the payment of more than $8 billion in compensation to more than 1.5 million Holocaust survivors, their heirs, and the heirs of those who did not survive. Those agreements, and the subsequent payments to Holocaust victims and their families pursuant thereto, were the result of the concentrated work of many people, including representatives of 11 agencies of the U.S. government, their counterparts in numerous foreign governments, leaders of many Jewish organizations, foreign companies, and a large number of skillful lawyers representing the interests of Holocaust survivors and heirs.

There are five things I would like to accomplish through my testimony today. First, I will address the emergence of the International Commission on Holocaust Era Insurance Claims ("ICHEIC"). Second, I hope to enhance the Subcommittee's understanding of the United States Government's Holocaust compensation and restitution efforts during the period I served as the Administration's leader for these issues -- particularly regarding the Executive Agreement between the United States and Germany and the resulting German Foundation -- and how ICHEIC fit into these broader efforts to secure compensation and restitution for Holocaust victims and their heirs. Third, I will suggest that the bill currently pending in the House, H.R. 1746, the Holocaust Insurance Accountability Act, as currently drafted, threatens the integrity of the U.S. Government's long-standing policy of resolving Holocaust-era claims through negotiation, not litigation. Fourth, I will highlight several characteristics of the ICHEIC process and contrast them with what is found in a court of law. This contrast indicates to my mind that the bill may not add appreciably to the likelihood of additional recovery on Holocaust-era insurance policies

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since the European insurance companies are committed to continuing to process future claims using ICHEIC's loose and flexible standards, and undercuts the successful U.S. Government policy of finding non-litigious ways to compensate Holocaust victims and their families without resort to costly, lengthy, and uncertain lawsuits. Finally, I will recommend measures the Congress could take which, in my opinion, offer a greater potential to assist Holocaust survivors and heirs than does H.R. 1746.

Since the end of the Second World War, restitution for Nazi crimes has been an important policy objective of the United States Government. Unfortunately, the ability of the United States Government to seek restitution and compensation for many individuals was compromised during the Cold War. Efforts to seek funds directly from European companies were particularly hindered in this regard. Following the end of the Cold War, however, the United States Government's policy was to seek justice and to do so with urgency. We wanted to ensure that survivors and their families received justice, but it was equally important that they get some measure of justice quickly. The fifty-year duration of the Cold War meant that time was running short.

The twin goals of justice and urgency gave life to what became the fundamental policy of the United States with regard to Holocaust-era claims. We made the decision that the interests of survivors would be best advanced by seeking compensation and restitution through mechanisms based on negotiation and administrative processes, and not on litigation or any other adversarial process. The timing issue, of course, was not the only reason litigation was an impracticable option, although it was an important one. Defenses which defendant companies and governments could use in lawsuits including post-War settlements, transaction costs including attorneys' fees, statutes of limitation and rules of evidence, as well as the burden of proof that would apply to survivors' claims in U.S. courts, made it unlikely that litigation offered a useful path to obtain restitution and compensation. Indeed, several federal judges dismissed Holocaust-related claims for slave labor payments.

Emergence of the ICHEIC Process

The ICHEIC process emerged initially not from our efforts inside the federal government, but rather from the impetus provided by the insurances regulators of a number of states. The initiators of the ICHEIC process were Neil Levin, at that time the New York Superintendent of Insurance, and Glen Pomeroy, the vice chairman of the National Association of Insurance Commissioners and North Dakota's Commissioner of Insurance. You, Senator Nelson, were also a key leader. You and the other insurance regulators had seen a growing number of claims relating to unpaid Holocaust-era insurance policies. In response, you and your colleagues met with Holocaust survivors, who told their stories of purchasing insurance policies to provide for their families' futures, of deaths of family members during the Holocaust, of their own survival, and of their unsuccessful attempts to receive payment under their insurance policies.

In the spring of 1998, the insurance commissioners and Holocaust survivor organizations invited the Clinton Administration to support an international commission to resolve

unpaid Holocaust-era claims and asked us to use diplomatic efforts to bring the affected European governments and companies into the process. We agreed to support this effort, which became ICHEIC. We also agreed to become an ICHEIC Observer, although the United States was never a member. My able deputy, J.D. Bindenagel, served as the Observer and kept me abreast of ICHEIC's activities.

Our support for the ICHEIC process was premised on the Government's interest in obtaining as quickly as possible some measure of justice for Holocaust victims and their families, including many U.S. citizens. The ICHEIC process also offered a way for us to resolve outstanding claims in a way that enhanced our diplomatic and economic relations with our European allies as well as with the State of Israel.

At the time, I was at the State Department. I was approached by the representatives of European insurance companies that had faced criticism and lawsuits in the United States for non-payment of Holocaust-era claims. It was clear to me that while insurance in our system is an activity that is regulated by the states, the resolution of these 60-year-old claims had to be merged with our forthcoming broader negotiations with Germany on Holocaust-era claims, as well as with other future negotiations. The merger was essential because our negotiations and those of the state insurance regulators were both seeking funds from the same universe of companies in Germany, and eventually also Austria. Moreover, under the class action settlement with the Swiss Banks which I helped facilitate (and which U.S. District Judge Edward Korman completed), all Swiss companies, including insurance companies, received certain protections from further lawsuits relating to Holocaust-era claims. The companies, understandably, did not want to pay twice for the same wrongs.

We also felt that we had to ensure the inclusion of the broadest possible number of companies and countries because, as a practical matter, the state insurance regulators had influence over only those European companies with significant operations in the United States. Indeed, the insurance companies that signed the ICHEIC Memorandum of Understanding were essentially the only European companies in that category, and thus were the only European insurance companies subject to U.S. state regulation. They were also, for the most part, the only insurance companies that survivors and heirs could sue in U.S. courts. Yet we knew that European insurance companies with operations in the United States did not constitute the complete universe of companies that had issued policies to Holocaust victims. Ultimately, many European insurers that did not conduct business in the United States and, therefore, would have been beyond the reach of U.S. courts, participated in the ICHEIC process.

So, as I met with the heads of insurance companies or other insurance company representatives, I put them in touch with Glen Pomeroy and Neil Levin, and at the same time searched for a mechanism to link them to our broader efforts on behalf of Holocaust survivors and heirs. In August 1998, the Memorandum of Understanding between the European insurers, state regulators, and survivor representatives, including the State of Israel, was signed with our support, and the ICHEIC process was launched.

The U.S. Government took a number of steps to support the ICHEIC process beyond assisting in diplomatic negotiations:

- The State Department organized a seminar in Prague to help spur efforts to create a fact-based history of the very complex issues relating to insurance policy assets seized by the Nazi regime and to help translate into action existing research into these issues so as to settle quickly the insurance claims of Holocaust survivors.

- The U.S. Government publicly supported ICHEIC at a 1998 meeting of the National Association of Insurance Commissioners in New York City.

- The State Department organized the so-called "Washington Conference" on Holocaust-era assets, which was held in November and December 1998 and at which I voiced the U.S. Government's support for the ICHEIC process and encouraged European insurers to participate in it. The proceedings of the Conference were published and remain available online.

The participants at the Washington Conference urged the resolution of still-pending insurance issues, but they also acknowledged past German Government efforts to compensate the victims of Nazi persecution. Those efforts began in the early 1950s. West German Chancellor Konrad Adenauer expressed, in September 1951, the need for Germany to provide Holocaust victims with "moral and material indemnity." In October 1951 and in an effort to avoid direct negotiations with West Germany (East Germany having refused any responsibility), the State of Israel, led by Prime Minister David Ben-Gurion helped create the Conference on Jewish Material Claims Against Germany (the "Claims Conference") along with 23 Jewish organizations that were Claims Conference members. These actions led to the two 1952 Luxembourg Agreements with West Germany on one side and the State of Israel and the Claims Conference, respectively, on the other. Under these and later agreements which together became known as the German "Federal Indemnification Laws," Germany has paid some 100 billion marks (equal to more 60 billion euros or 100 billion in today's dollars) to Holocaust survivors and heirs around the world.

On behalf of the U.S. Government, I strongly encouraged all insurance companies that had issued policies during the Holocaust era to join ICHEIC and participate fully in the process. That policy was reflected in testimony I gave before the House Banking Committee on September 14, 1999, in which I stated that "[w]e continue to believe that [ICHEIC] is the best vehicle for resolving Holocaust-era insurance claims …." It was reiterated numerous times, including in my letter of November 28, 2000, to former Secretary of State Eagleburger, who served as Chairman of ICHEIC, in which I stated that it was the foreign policy of the United States that ICHEIC "should be recognized as the exclusive remedy for resolving all insurance claims that relate to the Nazi era." That policy has never changed.

I met with the Prime Minister of the Netherlands to encourage him to get the Dutch insurance companies to join ICHEIC. Indeed, the State Department worked with

ICHEIC and representatives of the Dutch Government, insurance industry, and survivor organizations to incorporate the Dutch companies into ICHEIC. And through Executive Agreements that I negotiated with Austria and Germany, the United States Government ultimately brought the entire German and Austrian insurance industries into the process as well.

It is important for the Committee to understand that the ICHEIC process emerged voluntarily. It was not forced on the insurance companies. New York Insurance Superintendent Levin once described the theme of the effort to establish ICHEIC as "voluntary action based on a moral foundation." Neil Levin tragically died in the September 11th attack on the World Trade Center, yet all of the participants in ICHEIC -- including the state insurance regulators, the European insurers, and survivor's representatives -- have labored on to complete the work that he; you, Senator Nelson; and your colleagues inspired.

U.S. Government's Broader Restitution and Compensation Efforts

ICHEIC and the insurance claims it processed were only one part of the U.S. Government's broader Holocaust restitution and compensation efforts. As noted above, the United States was limited in its ability directly to pursue restitution and compensation during the Cold War, although Germany paid substantial sums beginning in the early 1950s. I first became involved in these issues when I was asked, in the mid-1990s while serving as U.S. Ambassador to the European Union, to encourage the newly-independent states of Eastern Europe to restore to their Jewish communities communal property (including Synagogues, cemeteries, and community centers) that had been taken during World War II. Soon, however, I became the Administration's point person for a much broader effort.

The single largest piece of the broader effort was the Executive Agreement between the United States and Germany as a part of which the German insurance companies participated in the ICHEIC process. This came about because in the fall of 1998 the German Government and German industry turned to me for help in facilitating the resolution of class action lawsuits brought against German companies. Germany proposed the creation of a foundation to make dignified payments to slave laborers and to resolve property and insurance issues. We agreed to work with them in that process. After 18 months of very difficult negotiations, on July 17, 2000, the United States and the reunified Germany signed an executive agreement which committed Germany to operate a foundation under the principles to which the parties in the negotiations had agreed, and at the same time, committed the United States to take certain steps to assist German companies in achieving "legal peace" in the United States.

As an initial matter, the United States has a long history of negotiating "lump sum" or similar settlements of its nationals' claims through executive agreements, a practice which dates back to 1799. Typically, executive agreements settle the claims of individuals against a foreign state. In the case of Holocaust claims, individuals had claims against foreign corporations as well as against foreign states. As the Supreme

Court noted in its *Garamendi* decision, however, this "distinction does not matter." It does not affect the United States Government's authority to settle claims through executive agreement. Additionally, in many situations, such executive agreements have provided that individual claims be submitted to a commission, which would adjudicate and ultimately pay the claims of individual claimants. So the ICHEIC process was not revolutionary in this respect either.

In typical settlement negotiations with foreign countries, the United States Government is the sole party negotiating on behalf of, and seeking to protect the interests of, individual American claimants. In the case of our Holocaust-related negotiations, however, the interests of the survivors and heirs were represented by a number of different groups, each of which had every reason to seek the best settlement possible. First, they were represented by a number of the United States' premier class action lawyers. Second, the State of Israel actively participated, in the person of Bobby Brown, in all negotiations. Third, Jewish groups, such as the Claims Conference and the World Jewish Restitution Organization ("WJRO") insisted on favorable terms. The WJRO is an umbrella organization of 10 other Jewish group created in 1992 by the State of Israel and the World Jewish Congress to represent the interests of world Jewry in regaining Jewish property after the fall of communism.

As shown, the interests of survivors and heirs were broadly and vigorously represented throughout the negotiations, and in the end, all parties accepted the Foundation "Remembrance, Responsibility and the Future" as a worthy result. The U.S. Government has filed Statements of Interest recommending that it was in the foreign policy interest of the United States that court cases against German companies for wrongs committed during the Nazi era be dismissed on any valid legal ground, and the U.S. Government remains committed to do so in future cases that are covered by the Foundation agreement. The United States, however, has not extinguished the claims of its nationals or of anyone else. It was and remains the policy of the United States government that Holocaust claims should not be resolved by litigation.

The most difficult issues in our German negotiations were the scope of the beneficiaries to be covered -- not just Jewish slave laborers but also non-Jewish forced laborers, for example; the total amount to be paid-in by Germany; the allocation of those funds to the various classes of claimants; and the provision of "legal peace" for the German companies and government.

The Foundation which was created as a result of our negotiations was capitalized at 10 billion marks with the German Government providing 5 billion marks, and German industry providing another 5 billion marks, plus 100 million marks in interest. A board of trustees provided oversight of the Foundation's operations, and the Foundation was managed by a three-member board of directors. Of the 10 billion marks, 8.1 billion was allocated to cover slave and forced labor claims, while another 1 billion marks was to cover property claims not fully captured by earlier German compensation and restitution programs. Of the one billion marks, 550 million marks were allocated to insurance

claims. The German Foundation also created a Future Fund of 700 million marks. (The remaining 200 million marks were for legal and administrative costs.)

The 26 members on the board of trustees included representatives of the German Government, the U.S. Government, the State of Israel, German companies, and also Jewish organizations and plaintiffs' attorneys. The Foundation has been subject to legal oversight by the German Government and is audited by two of its agencies. If one considers the U.S.-Germany Executive Agreement of July 17, 2000, one will find that it provides a framework for the treatment of claims made against German insurance companies but leaves the details of implementation to the responsible parties.

The role of the German insurance companies in the negotiation of the Executive Agreement was a critical one. In fact, without their participation, there could have been no broader Executive Agreement between Germany and the United States. There were two issues. First, was the money. It was impossible for Germany to provide the full 10 billion marks which we had agreed upon without the participation of the German insurance companies. Second, was the issue of legal peace. German insurer Allianz, a key member of the German private sector negotiating team, and the German companies together, refused to settle unless German insurance companies also received "legal peace." This was particularly complicated because ICHEIC was also engaged with German insurance companies. I was negotiating with the German insurance industry, the plaintiffs' attorneys, and the Jewish groups, on the one hand, and with Secretary Eagleburger, on the other. My negotiations with Secretary Eagleburger, chairman of ICHEIC, were difficult since he wanted the monies allocated from our German settlement to ICHEIC.

Ultimately, we reached a solution whereby 550 million marks of the global 10 billion mark settlement amount would be "passed through" to ICHEIC. In return, the United States Government agreed to submit a Statement of Interest in any appropriate litigation involving any German company, including German insurance companies, stating that it is in the foreign policy interests of the United States for the court to dismiss on any valid legal ground as found by the court cases against them in return for the 10 billion mark payment. This was to afford the companies the legal peace they desired.

The U.S.-Germany Executive Agreement provided that insurance claims made against German insurance companies were to be processed by the companies and the German Insurance Association on the basis of claims-handling procedures that were to be adopted in an agreement between the Foundation, ICHEIC, and the German Insurance Association. The Government of the United States and the Federal Republic of Germany were not part of those tripartite negotiations, but we made every effort to facilitate and encourage all sides to come together and resolve their differences.

By the time I left government in January 2001, these negotiations had not yet been brought to a conclusion. It took until October 2002 to conclude the so-called "Trilateral Agreement" on claims-handling procedures. It took until July 2003 to conclude an agreement with three other non-German ICHEIC members (AXA, Winterthur, and

Zurich), and it took until December 2003 to conclude an agreement with the Austrian General Settlement Fund.

It must be said that ICHEIC got off to a painfully slow and expensive start due to the complexity of the issues and the distrust of the parties. Eliminating that distrust took years, but in the end, ICHEIC was able to achieve its mandate of providing some measure of justice for Holocaust survivors and their heirs as quickly as possible. ICHEIC ultimately was successful. It paid $306 million to 48,000 Holocaust victims and their heirs under relaxed legal standards -- far lower than would satisfy a court. It also paid $169 million for humanitarian programs and humanitarian claims. A surplus in the claims fund of $27 million for specific social welfare programs for Holocaust survivors went from ICHEIC to be administered by the Claims Conference.

ICHEIC paid claims regardless of whether the company which issued the claimant's policy was actively participating in the ICHEIC process. This is important, because it meant that individuals who owned policies issued by companies that were liquidated, nationalized, or otherwise no longer existed, could still submit a claim to ICHEIC and be paid the full value of the claim. Approximately $31 million was paid out on such so-called "8a2" claims. The normal relaxed ICHEIC standards applied equally to these claims.

In the final analysis, ICHEIC successfully compensated individuals for their Holocuast-era insurance policies. Much has been said about the substantial administrative costs ICHEIC incurred, which amounted to approximately 17.4% of the funds it paid out. But it is important to understand what is included in this 17.4% figure. It includes all costs incurred by ICHEIC in publicizing its programs; in researching all claims at no cost to the claimants; in creating and staffing U.S. and European offices to work with local claimants; and in maintaining a call center that potential claimants could contact to receive more information about and assistance with the ICHEIC process.

HR 1746 Jeopardizes U.S. Government Policy on Holocaust Restitution and Compensation

The United States Government's policy on Holocaust restitution and compensation matters was and is that claims should be resolved through negotiation and cooperation, using administrative processes without payment of attorneys' fees, and not through a slow, costly, uncertain adversarial process like litigation. The policy is based on a belief that it was necessary to work with our European allies and other interested parties to secure restitution and compensation as quickly as possible. The policy also recognizes that litigation presents what would be, in the vast majority of cases, prohibitive barriers to recovery -- including statutes of limitation, rules of evidence, and burdens of proof -- and significant transaction costs in the form of high attorneys' fees. The policy is based also on consideration of the United States' broader foreign policy interests, in particular that we work closely with, and not against, our European allies and the State of Israel.

The bill currently pending in the House is squarely at odds with this United States Government policy. The bill provides for an adversarial, litigation process. It imposes the probability of litigation on companies that have cooperated fully with the United States Government and in the ICHEIC process and that have paid tens of millions of dollars in an effort to satisfy their obligations. It further imposes the probability of litigation on companies that have been deemed by the United States Government to be entitled to "legal peace," thereby undermining the word and credibility of the U.S. Government itself.

I am concerned with two groups of companies that could be subjected to litigation under the bill. First, are the German insurance companies. These companies participated in the ICHEIC process pursuant to the Executive Agreement between the United States and Germany, an Executive Agreement which enjoyed strong support by key Members of Congress. In return for their participation, which was monitored by the German government and audited by two of its agencies, the United States Government agreed that all German companies including German insurers should enjoy legal peace. The bill, as currently drafted, would vitiate that commitment by the United States Government and would be an example of gross bad faith after payment of 10 billion marks in settlements.

The second group of companies are those that participated fully in the ICHIEC process without the benefit of an Executive Agreement calling for a Statement of Interest in the event of litigation. While there was no technical legal peace extended by the U.S. Government with respect to these companies, they nonetheless participated in good faith in a process that the United States Government had decided was the "exclusive remedy" for resolving all Holocaust-era insurance claims. I testified before Congress on this very policy and it was broadly supported on a bipartisan basis. There is no justification for now subjecting them to some other remedy. This is a conclusion shared by the United States Supreme Court, in its *Garamendi* decision dealing with a State of California statute that conflicted with our agreement, and now-Attorney General, then Judge, Michael Mukasey determination in his *In re Assicurazioni Generali* decision dealing precisely with this issue.

The consequences of upsetting United States foreign policy interests will likely be wide-ranging. First, the bill essentially and fundamentally threatens our existing Executive Agreements with Germany and Austria and would undermine confidence in our Executive Agreement with France. Second, survivors' groups, such as the Claims Conference, continually seek to increase payments under our existing arrangements. It will impair the ability of those groups to successfully negotiate such enlargements in the future if Congress passes the bill. Third, the United States Government continues to seek agreements with other governments and industries that have not yet dealt fully with Holocaust restitution and compensation. Its ability to negotiate likewise would be impaired. Countries and companies will be unwilling to negotiate with survivors' groups or the United States Government if it appears to them -- not unreasonably -- that the United States is incapable of maintaining its end of a bargain.

HR 1746 Will Not Increase the Likelihood of Recovery on Holocaust-Era Insurance Claims

The ICHEIC process included extremely favorable rules for claims processing. Rather than being required to prove his or her claim by a "preponderance of the evidence," a Claimant before ICHEIC was required only to prove that his or her claim was "plausible." Even in the absence of evidence establishing plausibility, thousands of Claimants received humanitarian payments which required an even lesser showing.

Participants in the ICHEIC process likewise were not bound by any rules of evidence. The insurance companies agreed that "anything goes" on the evidentiary front.

Finally, claims were resolved through the ICHEIC process at no cost to Claimants -- unlike costly discovery in lawsuits. This included considerable research ICHEIC performed to help Claimant's develop their claims.

The U.S. Courts would not be so friendly a venue. Litigants would be faced with statutes of limitation, jurisdictional arguments, rules of evidence, and burdens of proof. They would be faced with considerable costs, including attorneys' fees, which might only be recovered at the end of the process if he or she wins (and wins on appeal). Such as cause of action would likely raise the hopes of survivors without offering them a real chance at additional recovery. But most importantly, litigation would take time -- time that survivors on the whole do not have.

A Better Way Forward

I urge the Committee to find a better way forward than H.R. 1746. I understand fully the desire to create a cause of action and to require publication of all Holocaust-era insurance policies as an aid to potential claimants. I have already noted my concerns about a new cause of action. I also am concerned that the Holocaust Insurance Registry proposed in the bill would place European insurers in the untenable position of being forced to violate European privacy laws in order to comply with U.S. law.

To avoid this situation but to ensure future processing of claims under ICHEIC standards, I believe that the better way forward is, first, to ensure that ICHEIC companies continue to process all claims submitted to them using ICHEIC's relaxed standards as they have pledged to do, and, second, to require that those companies submit periodic reports to an appropriate office of the United States Government on their claims processing. This reporting should include the number of new Holocaust-era claims submitted, the number granted, the reasons for any refusal, and the amount offered in compensation. The report could be submitted to the State Department's Office of Holocaust Issues, or some other appropriate office, and it should also be shared with the National Association of Insurance Commissioners and New York State's Holocaust Claims Processing Office ("HCPO"), to assist in their efforts to aid individuals with Holocaust claims. The HCPO, which will assist any individual -- not just New Yorkers -- in making Holocaust-related

claims, is working in concert with the National Association of Insurance Commissioners to provide this continuing service.

Congress also should hold periodic oversight hearings to assure that claims submitted are being handled properly and in conformity with ICHEIC standards. These requirements would strengthen U.S. policy of resolving Holocuast claims through non-adversarial processes and could be complied with without forcing European insurance companies to violate any European privacy laws, which otherwise may prevent them from participating in a wholesale publication of the names attached to all Holocaust-era insurance policies.

Third, I suggest that is necessary that the list of approximately 500,000 names published by ICHEIC be made available in perpetuity, perhaps on the web sites of the National Association of Insurance Commissioners, the HCPO, and the State Department's Office of Holocaust Issues. Additionally, the ICHEIC insurance companies should publish newspaper notices in the United States and Europe bringing to the attention of the general public the existence of the list, of the companies' willingness to process future claims under ICHEIC standards, and of the availability of the HCPO in assisting with claims.

Finally, I would suggest that efforts of the Congress and the rest of the U.S. Government should focus on those countries and industries that have done nothing yet to compensate victims of the Holocaust.

Since the ICHEIC claims process was completed in late 2006, each insurance company that participated has agreed to continue to process claims that could have been submitted to ICHEIC. They have agreed to do so using favorable ICHEIC standards of evidence and burden of proof and to do so without cost to claimants. In a letter of April 23, 2008, the German insurance association ("GDV") recently has committed in writing to continue to process both named and unnamed claims according to ICHEIC standards and has expressed its willingness to report to the State Department or other appropriate agency on the results of such claims. Congress should hold the GDV and other ICHEIC companies to this commitment.

Conclusion

In conclusion, I would simply like to say that I appreciate and share the emotions which motivate the desire on the part of Congress to do something to help Holocaust survivors and heirs. However, as one who has spent many years working diligently on Holocaust compensation and restitution issues, I urge the Congress to err on the side of discretion and to consider the potentially catastrophic effect that certain measures, like H.R. 1746, would likely have on existing and future efforts to secure some measure of justice for victims of the Holocaust and would likely do so without giving survivors any additional real chance of recovery. At the same time, I would support legislating a reporting requirement to ensure that European insurers pay claims in the future under ICHEIC standards and do so with continuing Congressional supervision. I would support republication of the ICHEIC list of names and renewed efforts to inform the public of the availability of claims processing by the ICHEIC companies and assistance by the HCPO.

Finally, I would encourage the United States Government to focus its resources on obtaining restitution and compensation from countries and industries that have done nothing to atone for their role in the Holocaust.

Thank you.