

55894

**INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION**

THE INSPECTION PANEL

1818 H Street, N.W.
Washington, D.C. 20433
U.S.A.

Telephone: (202) 458-5200
Fax : (202) 522-0916
Email: ipanel@worldbank.org

**Roberto Lenton
Chairperson**

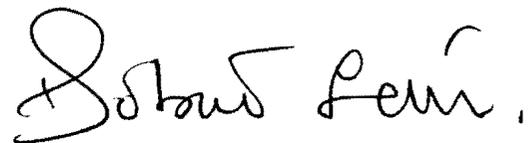
IPN REQUEST RQ 10/06

July 23, 2010

**MEMORANDUM TO THE EXECUTIVE DIRECTORS AND ALTERNATES
OF THE INTERNATIONAL BANK OF RECONSTRUCTION
AND DEVELOPMENT**

**POLAND: Third Employment, Entrepreneurship and Human Capital Development
Policy Loan (IBRD Loan No. 7949-PL)**

Please find attached the Inspection Panel's memorandum entitled "*POLAND: Third Employment, Entrepreneurship and Human Capital Development Policy Loan (IBRD Loan No. 7949-PL) – Notice of Receipt of a Request for Inspection and Decision Not to Register the Request*" dated July 23, 2010.



INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

THE INSPECTION PANEL

1818 H Street, N.W.
Washington, D.C. 20433

Telephone: (202) 458-5200
Fax : (202) 522-0916
Email: ipanel@worldbank.org

Roberto Lenton
Chairperson

IPN REQUEST RQ 10/06

July 23, 2010

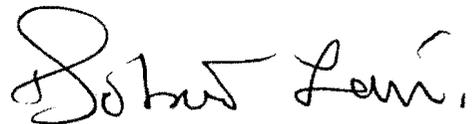
**MEMORANDUM TO THE PRESIDENT OF THE
THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT**

Re: Request for Inspection

**POLAND: Third Employment, Entrepreneurship and Human Capital Development
Policy Loan (IBRD Loan No. 7949-PL)**

Notice of Receipt of a Request for Inspection and Decision Not to Register the Request

Please find attached a copy of the Inspection Panel's memorandum entitled "*POLAND: Third Employment, Entrepreneurship and Human Capital Development Policy Loan (IBRD Loan No. 7949-PL) – Notice of Receipt of a Request for Inspection and Decision Not to Register the Request*" dated July 23, 2010.



Enclosure

cc: The Executive Directors and Alternates
International Bank for Reconstruction and Development

Roberto Lenton
Chairperson

IPN REQUEST RQ 10/06

July 23, 2010

**MEMORANDUM TO THE EXECUTIVE DIRECTORS OF THE
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT**

Request for Inspection

**POLAND: Third Employment, Entrepreneurship and Human Capital Development
Policy Loan (IBRD Loan No. 7949-PL)**

Notice of Receipt of a Request for Inspection and Decision Not to Register the Request

In accordance with paragraph 17 of IBRD and IDA Resolutions that established the Inspection Panel (the "Resolution"), I hereby inform you that on June 14, 2010, the Inspection Panel (the "Panel") received a Request for Inspection (the "Request") related to the above-referenced operation.

The Request for Inspection, dated June 8, 2010, was submitted by Dr. Irena Mausner and Mrs. Magda Acher as survivors of the holocaust and filing the Request on their own behalf and on behalf of the extended Fryman, Mirski, Mausner and Acher families.

The Requesters state that their property at Chocimska 6 Warsaw, Poland, was expropriated in the 1970s without the payment of any compensation. They further claim that this property is likely to be "privatized" by the Polish Government with the active support of the World Bank through this operation.¹ The Requesters further state that they owned extensive tracts of agricultural land in Silesia and that land was also expropriated without payment of compensation. They claim that Polish Government refused to discuss either claim with them.

The Requesters add that because only a two-page Public Information Document was available to them concerning this Loan, they endeavored, through their solicitor, to meet with Bank staff responsible for policy loans to Poland. They state that their requests for a meeting

¹ The Requesters also state that their family home is now managed by a state-owned enterprise known as "DipServe" that leased the property to the Dutch Government and used it as the Royal Netherlands Embassy.

and information concerning the Bank's support to the privatization program of Poland were rejected.

The Requesters state that they are not complaining about the Polish Government's expropriation of the property in the 1970s but rather about what they believe to be the Bank's decision in 2010 to provide significant funding and technical assistance to the Polish Government to privatize properties without even having checked the provenance of such properties. They add that it is this omission on the part of the Bank which is likely to have a material adverse effect on them, thereby making it more difficult for them to obtain restitution or compensation. The Requesters claim that the Bank failed to comply with its OP 7.40 (Disputes over Defaults on External Debt, Expropriation, and Breach of Contract).

Accordingly, they requested that the Panel recommend to the World Bank's Board of Executive Directors an investigation over the issues raised in this Request.

The Panel reviewed the Request and the Program Document for the Loan, which was made public shortly after Board approval of the Loan on June 17, 2010. On July 9, 2010, the Panel met with Management to inquire about certain aspects of the operation, including to seek more information on activities supported by the operation.

On July 14, 2010, Management provided a note to the Panel with information concerning the activities supported under the operation. According to Management, the operation has impacts on six different areas of policy: labor markets, social assistance (pensions), public finance, health, education, and private sector development. Management further stated that the operation does not support any privatization with respect to individual companies or even the broader policy of privatization, and that the areas of policy supported do not involve the sale of any assets that are the subject of this dispute. Management added that, in this light, there is no nexus between this operation and the particular concerns raised in the Request.

Management provided additional information regarding their understanding of OP 7.40 (Disputes over Defaults on External Debt, Expropriation, and Breach of Contract) in relation to this situation, and past correspondence with the Requesters. Management stated while, in their view OP 7.40 does not apply in the present situation, they would be prepared to write to the Government of Poland informing them that the dispute was brought to the Bank's attention and expressing the hope that such disputes be resolved between the parties concerned, without passing any judgment on the merits.

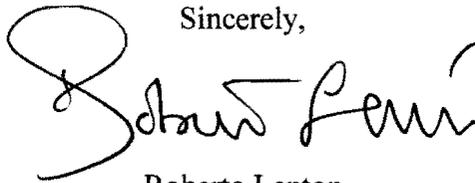
The Panel has reviewed the Program Document and other related information, including the information provided by Bank Management. The Panel Chairperson determines that there is no nexus between the Bank-financed operation and the claims concerning privatization in the Request for Inspection to the Panel. According to the Resolution establishing the Panel, the Panel shall not hear "*complaints with respect to actions which are the responsibility of other parties, such as a borrower, or potential borrower, and which do not involve any action or omission on the part of the Bank.*"² The Panel further wishes to

² Paragraph 14(a), International Bank for Reconstruction and Development (IBRD) Resolution 93-10, dated September 22, 1993 ("the 1993 Resolution"). In addition, according to Paragraph 22 of the Inspection Panel

note Management's willingness to write to the Government of Poland informing them that this dispute was brought to its attention and to express the hope that such disputes be resolved between the parties concerned, without expressing any view on the merits.

In this light, and with the above explanations, the Panel Chairperson has determined that this Request should not be Registered. The Panel will inform the Requesters both of this decision of non-Registration and of the action proposed by Bank Management in relation to the concerns raised in their Request.

Sincerely,

A handwritten signature in black ink, appearing to read "Roberto Lenton". The signature is fluid and cursive, with a large initial "R" and "L".

Roberto Lenton
Chairperson

Enclosure:

Copy of the Request for Inspection

cc: Messrs./Mmes. Andersen (SDNVP), Indrawati (MDI), Okonjo-Iweala (MDO), Le Houerou (ECAVP), Harrold (ECCU5), Di Leva (LEGEN), Lintner (OPCQC)

RECEIVED

JUN 14 AM 11: 53

INSPECTION PANEL

**Dr Irena Mausner
Mrs Magda Acher
Ul Maklakiewicza 11/85
02-642 Warszawa
Poland**

8 June 2010

**Executive Secretary
Inspection Panel
The World Bank
1818 H Street
NW Washington 20433
USA**

BY FAX ON 001 202-522-0916 AND BY POST

Dear Sirs

**RE: THIRD PROGRAMMATIC DEVELOPMENT POLICY LOAN P117666
REQUEST FOR INSPECTION/POLAND**

1. INTRODUCTION

We, Dr Irena Mausner (aged 75) and Mrs Magda Acher (aged 80) are survivors of the Warsaw Ghetto and the holocaust and file this Request for Inspection on our own behalf and on behalf of the extended Fryman Mirski and Mausner families and on behalf of the Acher family. Our property in Poland is likely to be "privatized" shortly by the Polish Government with the active support and encouragement of the World Bank even though our property has been expropriated without the payment of any compensation. The World Bank has admitted that it has neither investigated the provenance of the properties it is actively encouraging the Polish Government to privatize nor is it intending to do so.

2. PRIVATISATION IN POLAND

- 2.1 We are concerned by the World Bank's failure to comply with its own policies in respect of the privatization component of the "Third Programmatic Development Policy Loan for Poland" (hereinafter referred to as "PL3") and / or by the Polish Government's refusal to consult with us in our capacity as stakeholders. In this respect we also refer to the Country Partnership Strategy (2009-13) for Poland – Report No 48666-PL ("CPS") which sets out the World Bank's programme for Poland over the course of the next several years. We have suffered and are likely to suffer harm as a result of various omissions on the part of the World Bank in planning and implementing PL3 and in particular in respect of the World Bank's failure to ascertain the provenance of the assets the World Bank is encouraging the Government of Poland to privatize pursuant to PL3.
- 2.2 We understand that PL3 is due to be considered by the Board of the World Bank on Thursday 17th June 2010. We should therefore be grateful if the Panel would be kind enough to give this Request its urgent attention.
- 2.3 In addition the World Bank's failure to improve communications between ourselves and the Government of Poland has meant that it has become or is likely to become even more difficult for us to secure a resolution of our dispute with the Government of Poland.
- 2.4 We understand that PL3 will continue to support the Polish Government's programme to privatise "*enterprises and property*" which was also supported by the First and Second Development Policy Loans. This has been confirmed by Mr Peter Harrold Director for Central Europe at the World Bank. On 19 March 2010 Mr Harrold wrote to our solicitor and informed him as follows:
- 2.5 The CPS for Poland covers the period 2009 to 2013 and makes various references to the privatization programme in Poland. For example the CPS states at paragraph 56 as follows: -

"The World Bank's Development Policy Loan series supports the Government of Poland's privatization project as a whole, but the World Bank has had no involvement in the privatization of any specific enterprises or properties".

"The Bank has played, and can continue to play, an important role in supporting the environment for private sector development... In addition to technical assistance and ESW the Bank is supporting the broader private sector development agenda including privatization, through its programmatic DLP."

3. HARM SUFFERED OR LIKELY TO BE SUFFERED BY US

3.1 We have suffered, and are likely to suffer harm as a result of the World Bank's failures or omissions in properly appraising and supervising PL3. The World Bank's failure to comply with its own policies has had or threatens to have a material adverse effect on us in that no enquiries have been carried out by the World Bank to investigate the provenance of the property the World Bank is encouraging the Government of Poland to privatize. We refer, in particular, to the World Bank's duty to properly appraise projects before funds are granted and to Mr Peter Harrold's letter dated 12 April 2010 in which he states

"With regard to your question on the provenance of the properties to be privatized, this is entirely in the purview of the Polish authorities and Polish law".

3.2 Our family home at Chocimska 6 Warsaw is now a state owned public enterprise having been taken unlawfully from us (without the payment of compensation) and transferred to a Polish Government entity known as "DipServe". Interestingly it would appear that the privatization programme extends to "properties" as well as public enterprises (see Mr Harrold's enclosed letter dated 19 March 2010). Until recently our home was leased by DipServe to the Dutch Government who used our home as the Royal Netherlands Embassy. We also owned extensive tracts of agricultural land in Silesia which land has been expropriated from us without the payment of compensation. The Polish Government refuses to discuss either claim with us.

3.3 The World Bank's failure to investigate the provenance of the properties to be privatized will or is likely to have a material adverse effect on us and our families in that it is likely that our property will be sold as part of the privatization programme supported by PL3.

3.4 For the avoidance of doubt our complaint relates to the fact that the World Bank's aforementioned omissions when appraising PL3 are likely to make it almost impossible for us to obtain restitution of our property and/or to obtain compensation from the Polish Government in the event that our properties are included in the bundle of properties to be privatized with the active support of the World Bank. We are not complaining in this Request about the Polish Government's expropriation of our property in the 1970's but rather we are complaining about the World Bank's decision in 2010 to provide significant funding and technical assistance to the Polish Government to sell privatized properties without even having checked the provenance of the properties to be privatised. It is this omission on the part of the World Bank which is likely to have a material adverse effect on us thereby making it more difficult for us to obtain restitution or compensation.

4. THE WORLD BANK'S REFUSAL TO DISCLOSE INFORMATION

4.1 The World Bank is refusing to disclose information relating to PL3 to us and the Polish Government has failed to consult with us in our capacity as stakeholders. Our solicitor has written to the management of the World Bank in Washington DC on several occasions (see enclosed correspondence). He has received no substantive response to his enquiries. As is apparent from the enclosures to this letter although our solicitor originally made enquiries regarding the Second Programmatic Development Policy Loan in April 2009 the World Bank's management deliberately delayed its response to those enquiries notwithstanding numerous "chasing" letters until after the Policy Loan had been disbursed thereby preventing us from raising the issues referred to in this Request with the Inspection Panel insofar as the Second Development Policy Loan was concerned.

4.2 Mr Harold's comments in his letter dated 19 March 2010 are surprising bearing in mind that one of the stated purposes of the three Policy Loans is to support the Government of Poland's privatization programme. It is apparent from the documentation available on the World Bank's website that the Second Programmatic Policy Loan stipulated that the Government of Poland should offer for sale the "*first 80 public sector enterprises in the privatization programme*". It is stated elsewhere in the Report that the privatization programme supported by the three policy loans encompasses the sale of 740 state owned enterprises in total. There are also numerous documents on the World Bank's website evidencing the fact that the World Bank is providing technical assistance to the Government of Poland in respect of its privatization programme. The penultimate paragraph of Mr Harold's enclosed letter dated 12 April 2010 is therefore perplexing.

5. THE WORLD BANK'S REFUSAL TO MEET

5.1 There is a paucity of available information insofar as PL3 is concerned. This is surprising bearing in mind the very significant amount of money to be disbursed (in excess of US\$1.33 billion). The only publicly available document is a 2 page Public Information Document. For this reason we have through our solicitor endeavoured to meet with the individuals responsible at the World Bank for the Policy Loans to Poland. Our requests for a meeting have been rejected as have our requests for information about the World Bank's involvement in the privatization programme. Our solicitor attended in Washington DC in October 2009 and in May 2010 with the specific intention of meeting with the individuals at the World Bank responsible for the Development Policy Loan Series but as is apparent from the enclosed correspondence (17 February 2010, 17 March 2010, 19 March 2010, 23 March 2010 and 5 May 2010) on both occasions somewhat surprisingly World Bank staff refused to meet with our solicitor.

5.2 We believe that the World Bank has violated the principle of partnership which the World Bank is supposed to adopt when dealing with members of the public. There has also been a violation of the principle of transparency and disclosure of information.

5.3 By turning a blind eye to the problems we have identified and by continuing to disburse funds the World Bank has caused and is likely to cause us harm. The Polish Government refuses to discuss our claims with us as it knows the World Bank is unconcerned by this issue which issue incidentally affects thousands of claimants as a result of the nationalization of citizens' property by the former Communist Government of Poland.

5.4 We have also attempted to discuss our concerns with representatives of the Polish Government in accordance with OP 8.60 which requires the Government of Poland to consult with us as stakeholders. Our attempts to do so have been rebuffed. We have notified the World Bank of the Polish Government's refusal to discuss those issues.

5.5 We submit that the World Bank is failing to be transparent in its dealings with the public insofar as its strategy concerning privatization pursuant to PL3 in Poland is concerned.

6. THE POLICIES BREACHED BY THE WORLD BANK

6.1 We submit that the World Bank has failed to comply with the following policies and procedures in connection with the Development Policy Loans and PL3 in particular: -

- OMS 2.20 - Project Appraisal
- OP 4.12 - Involuntary resettlement
- OP 8.60 - Development Policy Lending
- OP/BP 10.00 - Investment Lending
- OP/BP 13.05 - Project Supervision
- World Bank's Policy on Disclosure of Information dated June 2002
- World Bank's Guidelines on the Treatment of Foreign Direct Investment

6.2 For example OMS 2.20 (Project Appraisal) requires the World Bank to ascertain whether any properties to be privatized have been taken from their former owners without compensation having been paid. The World Bank has not complied with its own policy in this regard. Our rights have been and are

likely to be directly affected by the World Bank's actions and omissions. If our property is sold as part of the privatization programme it will be far more difficult for us to seek restitution and/or compensation.

7. OP 7.40/ EXPROPRIATION

- 7.1 In addition to and without prejudice to the matters set out above the World Bank is also in breach of OP 7.40. It has not a) facilitated communications between ourselves and the Polish Government as is required and b) it has not encouraged the Polish Government to submit the dispute between ourselves and the Government of Poland to either mediation or arbitration.
- 7.2 We should add that we are US and French nationals respectively. We were foreign nationals at all relevant times. For the avoidance of doubt when the properties referred to above were expropriated we were the owners of the properties. Accordingly OP 7.40 clearly applies to our predicament as we were not Polish nationals when our property was taken from us. The World Bank has for reasons that we do not understand stated on several occasions that we cannot rely on OP 7.40 (see for example the World Bank's enclosed letter dated 6 January 2010) because according to the World Bank we had Polish nationality at the time the property was expropriated from us. This is not the case. Our solicitor has advised the World Bank that we are and were foreign nationals at all relevant times. The World Bank has consistently ignored this fact and refused to apply the clear and unambiguous wording contained in OP 7.40. We also wish to complain about the World Bank's unreasonableness and capriciousness in making such assertions about our status without ever having asked us for any clarification or supporting documentation. The World Bank has been, at all times, intent on giving itself the benefit of the doubt so as to be able to try and circumvent the requirements OP 7.40.
- 7.3 We enclose congressional correspondence sent last year to Prime Minister Donald Tusk on behalf of ourselves and thousands of other dispossessed foreign nationals. We also enclose **Concurrent Resolution 371** of the US House of Congress which calls upon the Polish Government to resolve all outstanding compensation issues. The Polish Government's refusal to pay compensation, submit our dispute to arbitration or even to discuss our dispute constitutes a breach of public international law, the World Bank's policy on expropriation and the World Bank's Guidelines on the Treatment of Foreign Direct Investment.
- 7.4 As a result of the World Bank's actions and/or omissions our rights and interests have been and are likely to be directly affected. The World Bank has continued to disburse loans notwithstanding the Polish Government's failure to compensate foreign investors in breach of the World Bank's policy.
- 7.5 The World Bank's failure pursuant to Operational Policy 7.40 to seek to improve communications between ourselves and the Government of Poland has materially affected our rights and in particular our ability to negotiate a

compromise of our claim. Our losses are likely to be directly attributable to the World Bank's actions. By approving and implementing this series of Policy Loans the World Bank has indicated to the Government of Poland that expropriatory acts of this kind (accompanied by a refusal to discuss the same with the claimants) will not trigger the actions and sanctions stipulated by both international law and the World Bank's own policies. **It is of particular concern to us that the World Bank is actually assisting the Government of Poland to sell the expropriated property.** OP 7.40 requires the World Bank to encourage the parties to settle disputes of this type and it also requires the World Bank to facilitate communications between the parties. It is clear from the congressional correspondence and the Concurrent Resolution that Poland's international credit standing has been damaged as a result of its unlawful actions.

7.6 Had the World Bank followed its own policies and procedures the World Bank is required to: -

- 7.6.1 Suspend the disbursement of any further financial resources in relation to the Policy Loans
- 7.6.2 Generally consider whether to continue lending to projects in Poland
- 7.6.3 Investigate the provenance of the property it has asked the Polish Government to privatise
- 7.6.4 Seek to improve communications between ourselves and the Government of Poland
- 7.6.5 Promote a prompt and adequate settlement of our dispute through mediation or arbitration

The World Bank has failed to take any of these steps.

Accordingly we request that the Inspection Panel recommend that the World Bank's Board of Executive Directors authorise an investigation of the issues raised in this Request.

Due to our age and for personal health reasons all correspondence should be sent to us c/o Suttons Solicitors at the address set out below and marked for the attention of Dr Mausner and Mrs Acher.

We look forward to hearing from you.

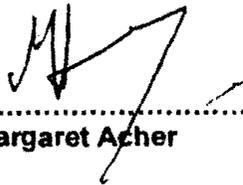
Yours faithfully,

DR IRENE MAUSNER AND MRS MARGARET ACHER

c/o Mr Stephen D Sutton
23 Bentinck Street
London
W1U 2EZ

Tel: 44 207 935 5279
Fax: 44 207 486 4426

.....
Signed by Dr Irene Mausner

A handwritten signature in black ink, appearing to be 'M.A.', written over a horizontal dotted line.

.....
Signed by Mrs Margaret Acher

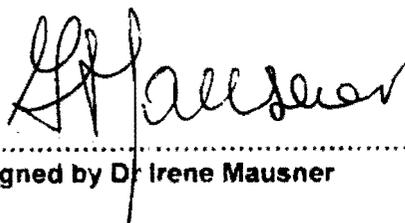
We look forward to hearing from you

Yours faithfully,

DR IRENE MAUSNER AND MRS MARGARET ACHEF

c/o Mr Stephen D Sutton
23 Bentinck Street
London
W1U 2EZ

Tel: 44 207 935 5279
Fax: 44 207 486 4426



.....
Signed by Dr Irene Mausner

.....
Signed by Mrs Margaret Acher

THIRD PROGRAMMATIC DEVELOPMENT POLICY LOAN P117666

ENCLOSURES TO REQUEST FOR INSPECTION DATED 8 JUNE 2010

1. Our solicitor's letter dated 7 October 2009 addressed to Sreen Juma Acting Director at the World Bank;
2. Letter from Theodore O.Ahlers, Acting Director for Central Europe and the Baltic Countries, to Suttons Solicitors dated 15 October 2009;
3. Our solicitor's letter dated 21 October 2009 addressed to Theodore O.Ahlers Acting Director for Central Europe and the Baltic Countries along with an enclosure entitled 'Property Restitution in Central and Eastern Europe' as prepared by the Bureau of European and Eurasian Affairs, Washington DC dated 3 October 2007
4. Letter from Theodore O. Ahlers dated 6 January 2010;
5. Our solicitor's letter dated 15 January 2010 addressed to Theodore O.Ahlers Acting Director for Central Europe and the Baltic Countries;
6. Letter from Peter Harrold Director for Central Europe and the Baltic Countries, to Suttons Solicitors dated 16 February 2010;
7. Our solicitor's response to Peter Harrold dated 17 February 2010;
8. Our solicitor's letter to Peter Harrold dated 17 March 2010;
9. Peter Harrold's letter of 19 March 2010;
10. Our solicitor's letter to Peter Harrold dated 23 March 2010;
11. Peter Harrold's letter of 12 April 2010;
12. Our solicitor's letter to Peter Harrold dated 5 May 2010;
13. Congressional correspondence addressed to Prime Minister Donald Tusk;
14. Concurrent Resolution 371 of the US House of Congress.

SUTTONS

SOLICITORS

STEPHEN D. SUTTON

**23 BENTINCK STREET
LONDON W1U 2EZ**

Consultants:

**CAROLINE D. GRACE
BRIAN B. HARRIS
HOWARD SALTER**

**TELEPHONE: 020 7935 5279
International: +44 20 7935 5279**

**FAX: 020 7486 4426
International: +44 20 7486 4426**

**OUR REF 5/AJS/M015
YOUR REF**

24 June 2009

Ms Sreen Juma
Acting Director
Central Europe and the Baltic Countries
Europe & Central Asia Region
The World Bank
1818 H Street, NW
Washington, DC 20433
USA

BY FAX ON 001 (202) 522-2566 AND POST

Dear Ms Juma,

RE: DR IRENE MAUSNER / GOVERNMENT OF POLAND

Thank you for your letter of 4 June 2009. Please find enclosed a copy letter from Congressman Robert Wexler and others dated 7 April 2008 addressed to the Polish Prime Minister.

As you will see from the enclosure to this letter the problems being experienced by my client Dr Irene Mausner are widespread. I understand that the World Bank's Board of Executive Directors is due to consider a further substantial Policy Loan for Poland on 30 June 2009. The World Bank is obliged to ensure that all loans made to client countries comply with the Bank's policies. OP7.40 provides, inter alia, that the Bank should not lend to countries that expropriate property without either paying compensation or submitting the matter to binding international arbitration.

Further I note that the new Policy Loan includes support for the Polish Government's ongoing privatisation programme. Has the World Bank investigated whether any of the property to be privatised (or already privatised pursuant to the previous Policy Loan) includes property that has been confiscated?

I look forward to hearing from you.

Yours sincerely

STEPHEN D. SUTTON

cc: Mr Michel Mordasini, Executive Director, World Bank

SOLICITORS

STEPHEN D. SUTTON

23 BENTINCK STREET
LONDON W1U 2EZ

Consultants:

CAROLINE D. GRACE
BRIAN B. HARRIS
HOWARD SALTER

TELEPHONE: 020 7935 5279
International: +44 20 7935 5279

FAX: 020 7486 4426
International: +44 20 7486 4426

OUR REF 5/AJS/M015
YOUR REF

Ms Sereen Juma
Acting Director
Central Europe and the Baltic Countries
Europe & Central Asia Region
The World Bank
1818 H Street, NW
Washington, DC 20433
USA

7 October 2009

BY FAX ON 001 (202) 522-2566 AND POST

Dear Ms Juma,

RE: POLAND / POLICY LOAN P116125

I refer to my letter dated 24 June 2009, a further copy of which is enclosed for your ease of reference. I do not appear to have received a reply to my enclosed letter.

In any event I will be attending in Washington DC next week and wondered if you had any time available for a meeting to discuss the matters raised by me in my previous correspondence. In particular I wish to discuss the Bank's Second Programmatic Policy Loan (P116125) to Poland which I understand was approved by the Board on 30 June 2009.

I am particularly concerned that my clients' property is about to be privatised with funding and technical assistance from the Bank bearing in mind that my clients' property was taken from them by the Government of Poland without any explanation or compensation being provided. In spite of numerous requests the Prime Minister of Poland refuses to meet with representatives of my clients to discuss the aforementioned issue and the Government is also refusing to compensate thousands of individuals whose property has been confiscated.

Please could you let me know whether you will be available for a meeting on Wednesday 14 October at 9am?

I look forward to hearing from you.

Yours sincerely

STEPHEN D. SUTTON



October 15, 2009

Stephen D Sutton
Suttons Solicitors
23 Bentinck Street
London W1U 2EZ
Fax: +44 20 7486 4426

Dear Mr. Sutton,

Thank you for your letter of October 7, 2009 addressed to the Acting Country Director for the Central Europe and the Baltics.

In response to your query about the Second Programmatic Policy Loan to Poland, please note in accordance with applicable policies, the Bank may take a position on disputes over expropriations by a state to which the Bank has been providing lending only when:

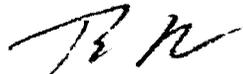
- (i) such expropriations involve the property of aliens (which excludes cases of expropriation of assets held by nationals and by individuals who, at the time the expropriation or nationalization occurred, had the nationality of the expropriating state);
- (ii) the member country is not making reasonable efforts to settle; and
- (iii) such expropriations are substantially harming the country's international credit standing.

When there are disputes over expropriations that, in the opinion of the Bank, the member country is not making reasonable efforts to settle and that are substantially harming the country's international credit standing, the Bank considers whether to continue making new loans to or with the guarantee of the member country. Hence, Bank action is discretionary, not mandatory, and is premised on clearly identified conditions.

The case of Dr. Irene Mausner described in your letter does not meet the above-mentioned conditions and therefore, the premise for Bank action is lacking.

I trust you will find the above information helpful and hope that you will reach a resolution to Dr. Mausner's case in the near future.

Sincerely,



Theodore O. Ahlers
Acting Director
Central Europe and the Baltic Countries
Europe and Central Asia Region

cc: Mr. Michel Mordasini, Executive Director, World Bank

—SOLICITORS—

STEPHEN D. SUTTON

23 BENTINCK STREET
LONDON W1U 2EZ

Consultants:

CAROLINE D. GRACE
BRIAN B. HARRIS
HOWARD SALTER

TELEPHONE: 020 7935 5279
International: +44 20 7935 5279

FAX: 020 7486 4426
International: +44 20 7486 4426

5/GNT/M015

OUR REF
YOUR REF

Mr Theodore O. Ahlers
Acting Director
Central Europe and the Baltic Countries
Europe and Central Asia Region
The World Bank
1818 H Street N.W.
Washington D.C. 20433
U.S.A

21 October 2009

BY FAX ON 001 202 522 2566 & POST

Dear Mr Ahlers,

RE: **SECOND PROGRAMMATIC POLICY LOAN TO POLAND**

Thank you for your letter of 15 October 2009. Please note the following:

- (i) Dr Mausner and her sister Mrs Margaret Acher are and were foreign nationals at all relevant times;
- (ii) The Polish Government is refusing to engage in any dialogue with Dr Mausner and her sister regarding the expropriations. The enclosed extract from the US State Department Report on Property Restitution in Central and Eastern Europe dated 3 October 2007 confirms Poland's abysmal track record in this area;
- (iii) I also enclose a copy of the Terezin Declaration dated 30 June 2009 which was signed following the recent Prague Conference along with a copy of Resolution 371 passed by the 110th Session of the US House of Congress. The enclosed documents confirm beyond a shadow of doubt that the expropriations under discussion are 'substantially harming [Poland's] international credit standing'.

I invite the Bank to reconsider its indefensible position regarding the Second Programmatic Policy Loan to Poland in light of the contents of this letter and its enclosures.

I look forward to hearing from you

Yours sincerely,

STEPHEN D SUTTON

cc: Congressman Robert Wexler

cc: Ambassador J Christian Kennedy (Office of Holocaust issues)

cc: The Claims Conference

cc: Mr Michel Mordasini, Executive Director, World Bank

COPY

Property Restitution in Central and Eastern Europe

Bureau of European and Eurasian Affairs
Washington, DC
October 3, 2007

Introduction

During World War II, the Nazis seized property, real and movable, from organizations and individuals which the Nazi regime was persecuting – Jews, members of some Christian organizations, Roma, homosexuals, and others. Much of that property in Western Europe was returned during the post-war period – under occupation law in areas occupied by the Allies, and under the laws of individual countries. This was not generally possible behind the Iron Curtain, where the newly-established communist governments simply took over property seized earlier by the Nazis. Those governments also frequently confiscated additional property from their own citizens.

The collapse of communism in 1989-91 made it possible to reconstitute property in the former Iron Curtain countries. Many countries enacted legislation to provide for the restitution of both private and communal property. (Communal property is property previously owned by religious and other organizations. It includes churches, synagogues, community halls, parochial schools, medical facilities, etc.)

The United States has strongly supported efforts to reconstitute to rightful owners property confiscated by the Nazis 1933-45 and by the subsequent communist governments of Central and Eastern Europe. Positive action on property issues was one of the criteria used to judge the progress of countries that aspired to North Atlantic Treaty Organization (NATO) membership. The European Union (EU) also recognizes the relevance of property issues in applicant countries.

A successful property restitution program is an indicator of the effectiveness of the rule of law in a democratic country. Non-discriminatory, effective property laws are also of crucial importance to a healthy market economy.

We recognize that in rem property restitution may not be possible in all cases. Payment of compensation is the obvious alternative.

Property restitution is often complicated and controversial. Changing the ownership and use of buildings and land from one party or purpose to another can cause major disruptions that already economically challenged countries can ill afford. There is no single system of property restitution laws and procedures that can be applied to all countries. In encouraging restitution, the U.S. government bears in mind the following considerations:

- Restitution laws should govern both communal property owned by religious and community organizations and private property owned by individuals and corporate entities.
- To document claims, access to archival records, frequently requiring government facilitation, is necessary. Reasonable alternative evidence must be permitted if archives have been destroyed.
- Uniform enforcement of laws is necessary throughout a country.
- The restitution process must be non-discriminatory. There should be no residence or citizenship requirement.
- Legal procedures should be clear and simple.
- Privatization programs should include protections for claimants.
- Governments need to make provisions for current occupants of restituted property.
- When restitution of property is not possible, adequate compensation should be paid.
- Restitution should result in clear title to the property, not merely the right to use the property.
- Communal property should be eligible for restitution or compensation without regard to whether it had a religious or secular use. Some limits on large forest or agricultural holdings may be needed.
- Foundations managed jointly by local communities and international groups may be appropriate to aid in the preparation of claims and to administer restituted property.
- Cemeteries and other religious sites should be protected from desecration or misuse before and during the restitution process.

The United States has been encouraged with the progress many countries have made on this difficult, complex and frequently controversial issue. Still, there is a great deal of work to be done in this area. Some countries still do not have property restitution laws. Others have laws in place but have found it difficult to administer existing laws in a non-discriminatory manner. Achieving passage and effective, timely implementation of restitution laws and procedures is both a critical indicator of rule of law in a democratic society and a crucial feature of a market economy.

... 2000, the Serbian National Assembly adopted the Law on Return (Restitution) of Property of Churches and Religious Communities. The law calls for the creation of a restitution agency to adjudicate claims.

Poland

- Government has not yet passed private property legislation.
- Communal property restitution well advanced, but slowing.

Private Property

There is no legislation governing the restitution of private property in Poland. Parliament has made several attempts to enact such legislation and did pass a law in early 2001, but President Kwasniewski vetoed it because of its budgetary implications. The legislation imposed a citizenship requirement that would have made most American citizens ineligible to file a claim. In 2006 the Polish government expressed its intention to draft and submit legislation regarding the restitution of private property, but the legislation was not enacted prior to the dissolution of Parliament for elections in October 2007. Some private property claimants have successfully acquired their property through suits in Polish courts. While approximately 500 claims totaling \$183 million have been settled in this manner over the past 10 years, the Polish treasury estimates that 56,000 potential claims valued at approximately \$16.7 billion remain outstanding pending the establishment of a formal claims process.

The Conference on Jewish Material Claims Against Germany, frequently known as the Claims Conference, held its annual meeting in Warsaw in February 2007 to press for urgent passage of a private property restitution law with more lenient filing requirements. The group met with high level officials, including the Prime Minister, who made his first statement in support of compensation for private property stolen by the Nazis and the communist regime. The proposal the prime minister backed would provide 15 percent of the current value of property, a figure some in the Claims Conference indicated was too low. Action on private property restitution legislation now awaits the formation of a new government following the October election.

In 2006, the U.S. Second Circuit Court of Appeals ruled in the class action suit *Garb v. Poland* that, under the Foreign Sovereign Immunity Act, the Government of Poland has immunity against suits filed in U.S. courts to recover property seized by the post-World War II communist government.

Communal Property

During the 1990's, Poland passed legislation to provide for the restitution of property held before the war by Poland's major religious organizations. The legislation established five separate commissions, comprised of representatives

of the government and the affected communities, to process the restitution claims. At the end of 2006, approximately 2,959 of the 3,063 claims filed by the Catholic Church had been concluded, with 1,420 claims settled by agreement between the Church and the party in possession of the property (usually the national or a local government); 932 properties returned through decision of the commission on property restitution, which rules on disputed claims; and 632 claims rejected by the commission.

The Lutheran Church, for which the filing deadline was 1996, filed claims for 1,200 properties. Of these, 842 cases were heard, 228 of which were resolved amicably and 136 of which were restored.

A total of 486 claims were filed with the commission by the Orthodox Church, of which 215 have been closed in full or in part.

Processing of Jewish claims remains active. Thousands of Jewish communal properties served Poland's 3.5 million Jews before the Holocaust. The law governing the restitution of Jewish communal property went into effect in May 1997 and provided a May 2002 deadline for restitution applications. Because of the large number of properties and the small size of the current Polish Jewish community, the community sought the assistance of the World Jewish Restitution Organization (WJRO). A joint foundation between the Polish Jewish community and the WJRO, known as the Foundation for the Preservation of Jewish Heritage in Poland (FPJHP) was established in late 2001 and registered in early 2002. The founding agreement provided that the Polish Jewish community would file claims in certain geographic areas, and the FPJHP would do so in areas not reserved for the Polish community. The Polish community filed nearly 2,000 applications by the deadline, and the FPJHP filed nearly 3,500 claims. Four years after the filing deadline, fewer than 25 percent of the cases had been resolved.

By the end of 2006 the commission had concluded 1,143 cases, of which 316 were settled amicably and 336 properties were restored. The remaining cases are still making their way through the system.

Many of the properties to be restituted are "heritage properties," primarily cemeteries. The maintenance of these properties represents a potential cost of considerable magnitude. The Foundation and the community may sell properties not needed by the community in order to meet these expenses.

Some observers have complained about the slow pace of restitution and the reluctance of the government to return valuable properties in some cases. In contrast, restitution of Jewish communal properties appears to be progressing well in cities like Warsaw and Lodz where local governments are supportive of these efforts. The laws on communal property also do not address instances where those properties are now owned by private third parties, leaving several

controversial cases unsettled.

Romania

- Implementation of Law 10/2001 (private property) continues at a slow pace.
- Implementation of Law 501/2002 (religious property) and Law 66/2004 (communal property) began late, and is proceeding slowly.
- Property fund not yet operational.
- Greek Catholic Church claims remain unresolved.

Private Property

Romania did not pass formal property restitution legislation until 2001 for urban dwellings (legislation was passed regarding farm and forest lands in 1991 and 2000, respectively). For the first decade following the fall of the Ceausescu regime, a series of court decisions, laws and decrees governed the return of property seized during World War II and under communist rule. These decisions, laws and decrees were frequently contradictory and led to considerable confusion.

In February 2001, Romania enacted Law 10 to govern private property restitution for properties confiscated during the 1945-1989 period. While this law provides a systematic approach to private property restitution, it is complex and places a considerable burden on claimants. Initially, the law provided an application period of just six months. There was no notification program outside of Romania, so potential claimants found it difficult to learn about the application process.

At the suggestion of the United States, the Romanian government extended the deadline, first to November 2001 and then to February 14, 2002. But the overseas notification program was not implemented until late 2001, making it hard for claimants to meet the application deadline. Law 10 does not allow for the restitution of agricultural or forested properties, which were covered by laws 18/1991 and 1/2000. Nor does Law 10 cover the restitution of properties belonging to religious communities or minority groups. Article 16 of Law 10, which exempted properties used for public purposes (such as hospitals, schools, kindergartens, theaters, museums, and other such institutions) from restitution *in rem*, was amended by Law 247/2005 to allow the restitution of such buildings. The rightful owners have the obligation to let public and cultural institutions use the buildings as tenants for three years, and health care and educational institutions for five years, after the restitution of the buildings. The owners are exempted from property taxes during this period and receive rent.

Law 10 required that applicants submit claims to municipal authorities through a court having jurisdiction over the property in question. This made it difficult for applicants who left Romania at an early age or for heirs to know where to submit

Suttons Solicitors
23 Bentinck Street
London W1U 2EZ
England
Fax: +44 20 7486 4426

Re: Second Programmatic Policy Loan to Poland

Dear Mr. Sutton:

We are in receipt of your follow-up letter on the above-referenced matter dated October 21, 2009.

We have reviewed your letter and the issue at hand again and the Bank's conclusions remain the same as conveyed to you in my letter of October 15, 2009. The case of Dr. Irene Mausner does not meet the conditions that must be present for the Bank to intervene and take a position in the dispute described in your letter.

We would like to avail of this opportunity to reiterate that, in accordance with applicable policies, the Bank may take a position on disputes over expropriations by a state to which the Bank has been providing lending only when:

- (i) such expropriations involve the property of aliens (which excludes cases of expropriation of assets held by nationals and by individuals who, at the time the expropriation or nationalization occurred, had the nationality of the expropriating state);
- (ii) the member country is not making reasonable efforts to settle; and
- (iii) such expropriations are substantially harming the country's international credit standing.

When there are disputes over expropriations that, in the opinion of the Bank, the member country is not making reasonable efforts to settle and that are substantially harming the country's international credit standing, the Bank considers whether to continue making new loans to or with the guarantee of the member country. Hence, Bank action is discretionary, not mandatory, and is premised on clearly identified conditions, which are not present here.

Since the premise for Bank action is lacking, the Bank has no grounds to reconsider its position regarding the alleged dispute.

I wish you every success in resolving your client's case.

Sincerely,



Theodore O. Ahlers
Acting Director
Central Europe and the Baltic Countries
Europe and Central Asia Region

cc: Mr. Michel Mordasini, Executive Director, World Bank

Phone (202) 473-8438 Fax (202) 521-2566

STEPHEN D. SUTTON

23 BENTINCK STREET
LONDON W1U 2EZ

Consultants:

CAROLINE D. GRACE
BRIAN B. HARRIS
HOWARD SALTER

TELEPHONE: 020 7935 5279
International: +44 20 7935 5279

FAX: 020 7486 4426
International: +44 20 7486 4426

OUR REF 5/GNT/M015
YOUR REF

15 January 2010

Mr Theodore O. Ahlers
Acting Director
Central Europe and the Baltic Countries
Europe and Central Asia Region
The World Bank
1818 H Street N.W.
Washington D.C. 20433
U.S.A

BY FAX ON 001 202 522 2566 & POST

Dear Mr Ahlers,

RE: SECOND PROGRAMMATIC POLICY LOAN TO POLAND

Thank you for your letter of 6 January 2010.

In your letter you recite the Bank's policy on expropriation. Adopting your numbering please note the following:-

- (i) Dr Mausner and her sister Mrs Margaret Acher are and were foreign nationals at all relevant times. If you would like any further information on this issue I would be happy to provide the same;
- (ii) It is well documented that Poland is the only country in Europe that has failed to deal with claims for compensation following the expropriations by the previous Communist regime. The US House of Representatives has concluded that Poland '*is not making reasonable efforts to settle*' these claims;
- (iii) The documents that I enclosed under cover of my previous letter confirmed beyond a shadow of doubt that the expropriations under discussion are '*substantially harming [Poland's] credit standing*'. Resolution 371 of the 110 Session of the US House of Congress (a further copy of which is enclosed for your ease of reference) is an extraordinary document which you appear to have overlooked.

The Bank is, of course, a subject of international law and is required to comply with principles of international law and not just its own internal policies. International law stipulates that where there has been an expropriation there should be 'prompt, adequate and effective' compensation. The Bank's policy on expropriation is intended to reflect this important principle which should be borne in mind when the Bank exercises its discretion.

Might I respectfully suggest that the Bank, in accordance with its policy on expropriation, assist Dr Mausner in communicating with the Polish Government (see paragraph 8 of OP 7:40). In addition to **'improving communications between the parties and impressing on them the desirability of a settlement'** OP 7:40 also recommends that the Bank promote a settlement through, inter alia, mediation or arbitration. For the avoidance of doubt Dr Mausner would be happy to participate in either a mediation or an arbitration. To date the Polish Government has rebuffed all efforts on the part of Dr Mausner to engage in a substantive dialogue.

When I am next in Washington D.C. I would very much like to meet with you to discuss this important issue and the ways in which the Bank could assist the parties in reaching a settlement in accordance with OP 7.40. Please could you let me have details of your availability for a meeting between now and the end of March 2010.

When responding please could you also let me have an update regarding the Third Programmatic Policy Loan for Poland. Please could you let me know if a Project Information Document or any other publicly available documentation regarding the loan is presently available and, if so, please could you forward a copy of the same to me? Has a date been fixed for the granting of this loan?

I look forward to hearing from you

Yours sincerely,

STEPHEN D SUTTON

cc: **Congressman Jerrold Nadler**

cc: **Mr Michel Mordasini, Executive Director, World Bank**

C

February 16, 2010

Stephen D. Sutton, Esquire
Suttons Solicitors
23 Bentinck Street
London W1U 2EZ
England, UK
Fax: +44 20 7486 4426

Re: Second Programmatic Policy Loan to Poland

Dear Mr. Sutton:

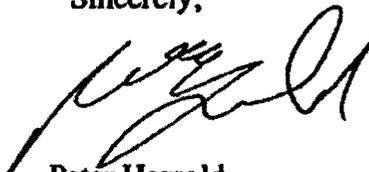
Thank you for your letter of 14 January 2010.

We have carefully reviewed your letter and the issue at hand again and the Bank's conclusions remain the same as conveyed to you in our letters of 15 October 2009 and 6 January 2010.

The Third Programmatic Policy Loan is currently under preparation. A Project Information Document should be sent to the InfoShop by the middle of next month.

I wish your client every success in resolving her case.

Sincerely,



Peter Harrold
Director
Central Europe and the Baltic Countries
Europe and Central Asia Region

cc: Mr. Michel Mordasini, Executive Director, World Bank

Phone (202) 473-6048 Fax (202) 522-2566

TOTAL P. 1

STEPHEN D. SUTTON

23 BENTINCK STREET
LONDON W1U 2EZ

Consultants:

CAROLINE D. GRACE
BRIAN B. HARRIS
HOWARD SALTER

TELEPHONE: 020 7935 5279
International: +44 20 7935 5279

FAX: 020 7486 4426
International: +44 20 7486 4426

OUR REF 5/AJS/M015
YOUR REF

17 February 2010

Mr Peter Harrold
Director
Central Europe and the Baltic Countries
Europe and Central Asia Region
The World Bank
1818 H Street N.W.
Washington D.C. 20433
U.S.A

BY FAX ON (202) 522-2566 AND BY POST

Dear Mr Harrold,

RE: SECOND PROGRAMMATIC POLICY LOAN TO POLAND

Many thanks for your letter of 16 February 2010.

As previously requested, I should be grateful if you or one of your colleagues would be kind enough to meet with me next month when I will be in Washington DC. Please could you let me have details of your availability. It would also be helpful if the Bank would agree to facilitate a dialogue between the Government of Poland and Dr Mausner.

I look forward to hearing from you.

Yours sincerely

STEPHEN D SUTTON

cc: Congressman Jerrold Nadler (by email)

Mr Michel Mordasini (by email)

STEPHEN D. SUTTON

23 BENTINCK STREET
LONDON W1U 2EZ

Consultants:

CAROLINE D. GRACE
BRIAN B. HARRIS
HOWARD SALTER

TELEPHONE: 020 7935 5279
International: +44 20 7935 5279

FAX: 020 7486 4426
International: +44 20 7486 4426

OUR REF 5/AJS/M015
YOUR REF

17 March 2010

Mr Peter Harrold
Director
Central Europe and the Baltic Countries
Europe and Central Asia Region
The World Bank
1818 H Street N.W.
Washington D.C. 20433
U.S.A

BY FAX ON (202) 522-2566 AND BY POST

Dear Mr Harrold,

RE: THIRD PROGRAMMATIC DEVELOPMENT POLICY LOAN TO POLAND

I refer to my previous correspondence in which I requested a meeting to discuss various matters arising in the context of the Bank's Programmatic Development Policy Loans to Poland. Please would you be kind enough to let me have details of your availability for a meeting during the course of the next few weeks so that I can plan my diary.

I note that the Third Programmatic Policy Loan for Poland continues to support the Polish Government's ongoing privatisation programme. The queries raised in my letters of 24 June and 7 October 2009 (copy enclosed) remain unanswered.

My clients would like to know whether the World Bank has investigated the provenance of the property to be privatised by the Polish Government (or of the property which has already been privatised pursuant to the previous Policy Loans) and whether that property includes assets that have been confiscated from their original owners without compensation. My clients are concerned that their property (which was expropriated without compensation by the Polish Government) will be privatised with funding and technical assistance from the World Bank.

The Prime Minister of Poland refuses to meet with representatives of my clients to discuss the aforementioned issue and the Government of Poland is also refusing to compensate my clients and thousands of other individuals whose property has been

...necessarily the confiscated assets are being privatised with the active support and encouragement of the World Bank.

Please could you treat this letter as a formal request for disclosure of information and documents relating to the World Bank's involvement in the Polish Government's privatisation programme pursuant to the World Bank's policy on disclosure of Information dated June 2002 and pursuant to OP/BP 8.60 (Development Policy Lending).

It is important that the Bank is transparent and accountable in its development policies and it is also important that information is shared by those affected by Bank programmes of this type. It is clear that there has been a lack of transparency and a refusal to disclose information given the numerous requests that I have now made for clarification regarding the World Bank's involvement in the Polish Government's ongoing privatisation programme.

I look forward to hearing from you.

Yours sincerely

STEPHEN D SUTTON

cc: **Congressman Jerrold Nadler (by email)**

Mr Michel Mordasini (by email)

C

O

P

Y

March 19, 2010

Stephen D. Sutton, Esquire
Suttons Solicitors
23 Bentinck Street
London W1U 2EZ
England, UK
By fax: +44 20 7486 4426

Re: Third Programmatic Policy Loan to Poland

Dear Mr. Sutton,

Thank you for your letters of 17 February and 17 March 2010. I am travelling among client countries throughout March 2010.

We have no further information to add to the response provided in our letters of 4 June 2009, 15 October 2009, 6 January 2010 and 16 February 2010. In the absence of any new information, we would respectfully suggest that there is little value in scheduling a meeting.

The World Bank's Development Policy Loan series supports the Government of Poland's privatization project as a whole, but the World Bank has had no involvement in the privatization of any specific enterprises or properties. The program documents relating to the first two loans in this Development Policy Loan series are already publicly available at www.worldbank.org. The program document for the third loan in the series will be made publicly available only once it has been approved by the World Bank's Executive Board. In the meantime, a summary Public Information Document is publicly available from the World Bank's Infoshop.

Sincerely,



Peter Harrold
Director
Central Europe and the Baltic Countries
Europe and Central Asia Region

Attachment: PID

cc: Mr. Michel Mordasini, Executive Director, World Bank



SUTTONS

SOLICITORS

STEPHEN D. SUTTON

23 BENTINCK STREET
LONDON W1U 2EZ

Consultants:

CAROLINE D. GRACE
BRIAN B. HARRIS
HOWARD SALTER

TELEPHONE: 020 7935 5279
International: +44 20 7935 5279

FAX: 020 7486 4426
International: +44 20 7486 4426

OUR REF 5/AJS/M015
YOUR REF

23 March 2010

Mr Peter Harrold
Director
Central Europe and the Baltic Countries
Europe and Central Asia Region
The World Bank
1818 H Street N.W.
Washington D.C. 20433
U.S.A

BY FAX ON (202) 522-2566 AND BY POST

Dear Mr Harrold,

RE: **THIRD PROGRAMMATIC DEVELOPMENT POLICY LOAN TO POLAND**

Many thanks for your letter of 19 March 2010.

Whilst indeed your Department has written a number of letters to me in recent months the enquiries that I raised in my previous correspondence regarding the Polish Government's privatisation programme and the World Bank's support of the same remain unanswered. Your letter of 19 March 2010 is the first communication that I have received from the World Bank which refers to the issue of privatisation in Poland.

In that letter you state that the Bank '*has had no involvement in the privatisation of any specific enterprises or properties*'. With respect the question that I raised in previous correspondence was whether the Bank has investigated the provenance of the property to be privatised by the Polish Government and whether that property includes assets that have been confiscated from their owners without compensation.

My trip to Washington D.C will be delayed until next month. Perhaps we could identify a mutually convenient date and time to meet in April. I look forward to receiving details of your availability and to receiving your substantive response to my enquiry as summarized above.

Yours sincerely

STEPHEN D SUTTON

cc: Mr Michel Mordasini (by email)

April 12, 2010

Stephen D. Sutton, Esquire
Suttons Solicitors
23 Bentinck Street
London W1U 2EZ
England, UK
By fax: +44 20 7486 4426

Re: Third Programmatic Policy Loan to Poland

Dear Mr. Sutton:

Thank you for your letters of 17 February, 17 March and 23 March 2010.

We have no further information to add to the response provided in our letters of 4 June 2009, 15 October 2009, 6 January 2010, 16 February 2010 and 19 March 2010.

As previously mentioned, the Bank may take a position on disputes over expropriations by a state to which the Bank has been providing lending only when:

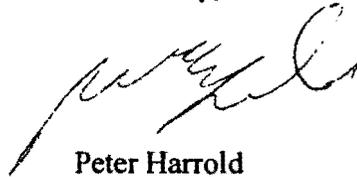
- 1) such expropriations involve the property of aliens (which excludes cases of expropriation of assets held by nationals and by individuals who, at the time the expropriation or nationalization occurred, had the nationality of the expropriating state);
- 2) the member country is not making reasonable efforts to settle; and
- 3) such expropriations are substantially harming the country's international credit standing.

As previously noted, the Bank has determined that these conditions are not present and therefore has no grounds to reconsider its position regarding the alleged dispute.

With regard to your question on the provenance of the properties to be privatized, this is entirely in the purview of the Polish authorities and Polish law.

As there is no new information to convey, I would respectfully suggest that we close this correspondence.

Sincerely,



Peter Harrold
Director

Central Europe and the Baltic Countries
Europe and Central Asia Region

cc: Mr. Michel Mordasini, Executive Director, World Bank



SOLICITORS

STEPHEN D. SUTTON

**23 BENTINCK STREET
LONDON W1U 2EZ**

Consultants:

**CAROLINE D. GRACE
BRIAN B. HARRIS
HOWARD SALTER**

**TELEPHONE: 020 7935 5279
International: +44 20 7935 5279**

**FAX: 020 7486 4426
International: +44 20 7486 4426**

5/AJS/M015

**OUR REF
YOUR REF**

5 May 2010

**Mr Peter Harrold
Director
Central Europe and the Baltic Countries
Europe and Central Asia Region
The World Bank
1818 H Street N.W.
Washington D.C. 20433
U.S.A**

BY FAX ON (202) 522-2566 AND BY POST

Dear Mr Harrold,

RE: DR IRENE MAUSNER/ THE GOVERNMENT OF POLAND

Thank you for your letter of 12 April 2010.

I will be attending in Washington DC next week and wondered if it would be possible to meet with you, or one of your colleagues, either on Monday afternoon 10 May 2010 or Tuesday morning 11 May 2010.

I look forward to hearing from you.

Yours sincerely

STEPHEN D SUTTON

CONGRESS OF THE UNITED STATES

Washington, DC 20515

April 7, 2008

The Honorable Donald Tusk
Prime Minister
Sejm
Poland

Dear Prime Minister Tusk:

As Members of Congress firmly committed to strong bilateral ties between the United States and Poland, we want to thank you for your recent public commitment to advance legislation addressing the issue of private property restitution in Poland.

We are heartened that your government is leading an effort to ensure that individuals seeking restitution of property seized, stolen or confiscated by the Nazis during the WWII and by the subsequent communist governments receive just and proper compensation. The swift introduction and implementation of an equitable and fair property restitution law would be a significant demonstration of your government's commitment to address outstanding restitution issues.

A just resolution of this issue is of critical importance. Many of the individuals who would receive restitution are in their waning years. Despite numerous assurances in the past, claimants have experienced delays and roadblocks in their efforts to obtain restitution or compensation in Poland. The enactment of comprehensive property restitution legislation would bring closure to one of the most painful chapters of the Holocaust – a chapter that should have been brought to an end many years ago.

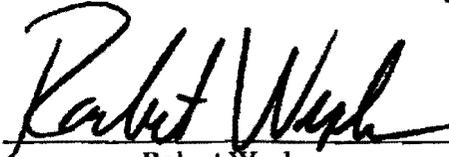
As property restitution legislation advances in your parliament, we urge you to ensure that non-citizens will be able to submit claims for property restitution alongside Polish citizens. As you know, many Poles fled their homeland during the horrors of the Holocaust as a consequence of the threats to their life and their family, and in this process lost their property and all possessions. Fair and just legislation should take this into account, and allow non-citizens to be eligible for restitution and compensation.

Prime Minister Tusk, previous Polish governments have made statements in support of addressing outstanding property restitution claims but have not passed the necessary legislation. To that end, we hope that under your leadership just, fair and comprehensive property restitution legislation will be enacted and our mutual efforts to provide a measure of justice to those individuals whose property was unlawfully seized, stolen or confiscated will finally come to fruition.

As you know the United States and Poland share the strongest of relations and we greatly value this special partnership which has blossomed over the past two decades. We look forward to building on this success and to working with you to address key bilateral issues that will further enhance our partnership.

We greatly appreciate your efforts to resolve the outstanding issue of property restitution and we look forward to your response to this letter.

Sincerely,



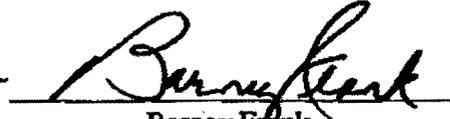
Robert Wexler
Chairman
Subcommittee on Europe



Elton Gallegly
Ranking Member
Subcommittee on Europe



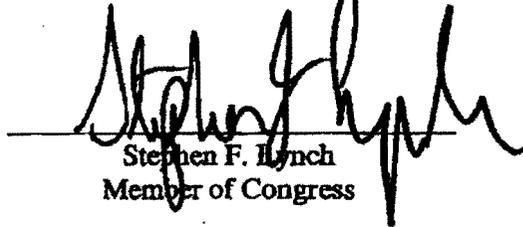
Howard Berman
Chairman
House Committee on Foreign Affairs



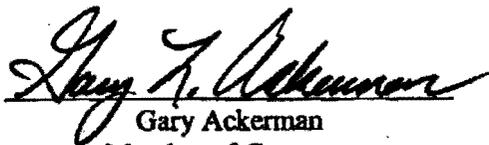
Barney Frank
Chairman
House Committee on Financial Services



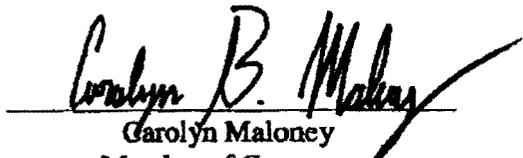
Alcee Hastings
Chairman
Commission on Security and
Cooperation in Europe



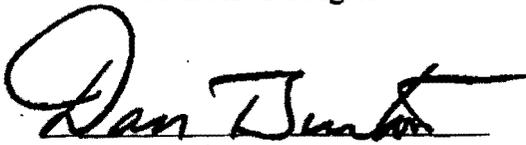
Stephen F. Lynch
Member of Congress



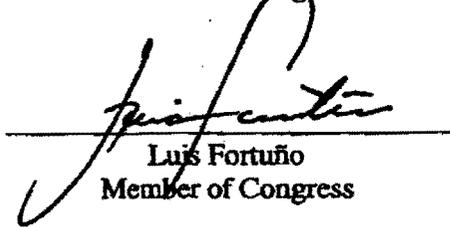
Gary Ackerman
Member of Congress



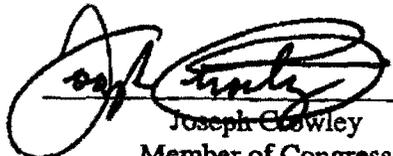
Carolyn Maloney
Member of Congress



Dan Burton
Member of Congress

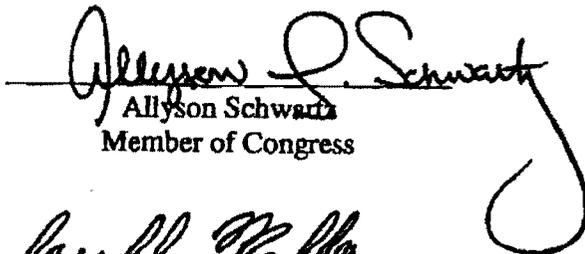


Luis Fortuño
Member of Congress

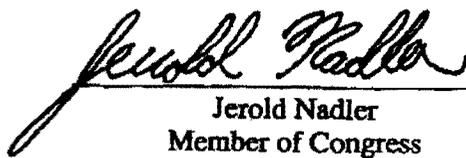

Joseph Crowley
Member of Congress

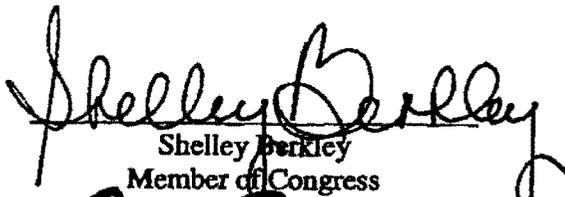

Eliot Engel
Member of Congress

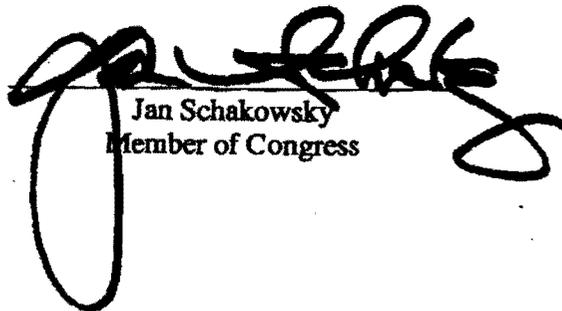

Gus Bilirakis
Member of Congress


Allyson Schwartz
Member of Congress


Steve Chabot
Member of Congress


Jerold Nadler
Member of Congress


Shelley Berkley
Member of Congress


Jan Schakowsky
Member of Congress


Chris Smith
Member of Congress

Washington, DC 20515

June 23, 2009

The Honorable Donald Tusk
Prime Minister
Chancellery of the Prime Minister
Al. Ujazdowskie 1/3
00-583 Warszawa
Poland

Dear Prime Minister Tusk:

As friends of Poland in the United States Congress, we are writing you again to raise the issue of property restitution for individuals who had their properties seized or confiscated by the Nazis during the Second World War and by subsequent communist governments. While we greatly appreciate your public commitments to advance legislation addressing this important issue, we are hopeful that you will follow through on these commitments and move forward with fair and just property restitution and/or compensation legislation.

As you know, at the end of this month, your government, along with others in Europe, will have an historic opportunity to commit to resolving the issue of property restitution when the Czech government hosts the 'Prague Conference on Holocaust Era Assets,' a follow-up Conference to the 1998 Washington Conference on Holocaust Era Assets. We believe that the Prague Conference may represent the last and best opportunity to resolve outstanding Holocaust-era issues during the lifetime of Holocaust survivors. Survivors and their heirs are paying close attention to this Conference, and rightfully expect the participating governments to commit to resolving issues that have remained outstanding for over six decades.

As you may be aware, on September 23, 2008, the U.S. House of Representatives voted unanimously in favor of House Concurrent Resolution 371, a resolution strongly supporting an immediate and just restitution or compensation of property illegally confiscated during the last century by Nazi and Communist regimes. Specifically, the resolution called on the government of Poland to immediately enact fair, comprehensive, and just legislation so that Holocaust survivors or their heirs are able to receive either restitution or compensation of their property. The resolution also urges your government to ensure that such legislation establishes a non-bureaucratic, simple, transparent, and timely process, so that it results in a real benefit to those individuals who suffered from the unjust confiscation of their property.

It is our understanding that during the Prague Conference, the international community will formulate principles to guide future property restitution/compensation efforts. The Conference is an opportunity for your government to publicly re-commit to introducing, passing, and implementing equitable and fair property restitution legislation which will provide victims of Nazi and Communist persecution with at least a small measure of justice during their lifetimes.

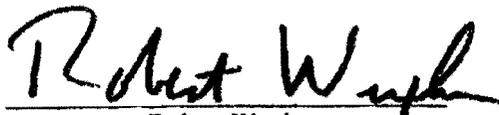
To that end, we respectfully request that you and your government provide a clear timeline at the Prague Conference for resolving this issue, a date when you expect legislation to be introduced and passed by the Polish Parliament, and information about how your government plans to implement this law, once enacted. Given the importance of this issue, it is our hope that the legislative and implementation process will be completed by the end of the calendar year.

Providing this pertinent information at the Prague Conference would be welcome by claimants and members of Congress, considering that past commitments to resolve this issue have not been met.

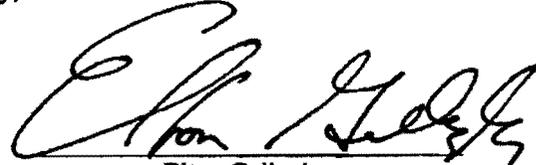
Prime Minister Tusk, as you know, an overwhelming majority of European governments have already signed into law property restitution/compensation legislation. In doing so, they sought to rectify historic injustices that impacted millions of individuals across Europe in the last century. The Prague Conference is the right venue for your government to follow the example of your neighbors and take bold steps toward enacting and implementing comprehensive property restitution legislation.

Over the past two decades, the U.S.-Polish strategic partnership has expanded and blossomed. We greatly value this special friendship which will continue to grow, and look forward to working with you and your government at the Prague Conference to address the property restitution/compensation issue which is of critical importance to many of our constituents across the United States.

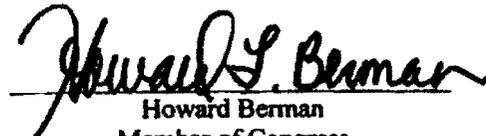
Sincerely,



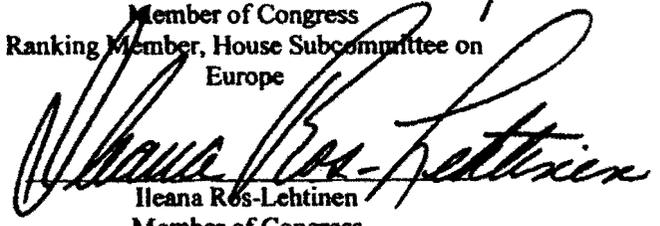
Robert Wexler
Member of Congress
Chairman, House Subcommittee on Europe



Elton Gallegly
Member of Congress
Ranking Member, House Subcommittee on Europe



Howard Berman
Member of Congress
Chairman, House Committee on Foreign Affairs



Ileana Ros-Lehtinen
Member of Congress
Ranking Member, House Committee on Foreign Affairs

Debbie Wasserman Schultz

Debbie Wasserman Schultz
Member of Congress

Ron Klein

Ron Klein
Member of Congress

Allyson Schwartz

Allyson Schwartz
Member of Congress

Shelley Berkley

Shelley Berkley
Member of Congress

Rush Holt

Rush Holt
Member of Congress

Steve Kagen

Steve Kagen
Member of Congress

Mary Jo Kilroy

Mary Jo Kilroy
Member of Congress

Paul Hodes

Paul Hodes
Member of Congress

Edward J. Markey

Edward Markey
Member of Congress

Eliot L. Engel

Eliot Engel
Member of Congress

Henry Waxman

Henry Waxman
Member of Congress

Gary Ackerman

Gary Ackerman
Member of Congress

Steven Rothman

Steven Rothman
Member of Congress

Carolyn B. Maloney

Carolyn Maloney
Member of Congress

Jerrold Nadler

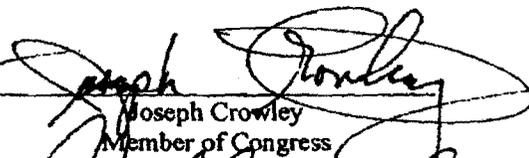
Jerrold Nadler
Member of Congress

Alcee L. Hastings

Alcee L. Hastings
Member of Congress



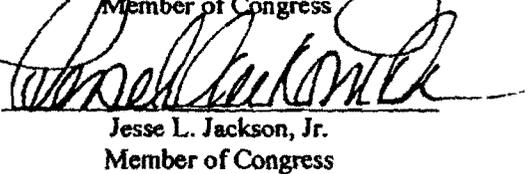
Janice Schakowsky
Member of Congress



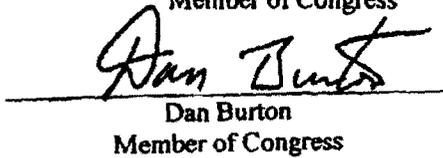
Joseph Crowley
Member of Congress



Steve Israel
Member of Congress



Jesse L. Jackson, Jr.
Member of Congress



Dan Burton
Member of Congress

Cc:
Secretary of State Hillary Clinton
Ambassador J. Christian Kennedy, U.S. Special Envoy for Holocaust Issues
Ambassador Robert Kupiecki

110TH CONGRESS
2D SESSION

H. CON. RES. 371

CONCURRENT RESOLUTION

Strongly supporting an immediate and just restitution of, or compensation for, property illegally confiscated during the last century by Nazi and Communist regimes.

110TH CONGRESS
2D SESSION

H. CON. RES. 371

CONCURRENT RESOLUTION

Whereas the United States strongly supports an immediate and just restitution or compensation of property illegally confiscated during the last century by Nazi and Communist regimes;

Whereas the wrongful and illegal confiscation of property perpetrated by Nazi and Communist regimes was often an integral part of the persecution of innocent

people due to their religion, nationality, or social origin, or the expression of a view that differed from that of the ruling regime;

Whereas the protection of and respect for property rights is a basic principle tenet for all democratic governments that operate according to the rule of law;

Whereas the participating countries of the Organization for Security and Cooperation in Europe (OSCE) have agreed to achieve or maintain full recognition and protection of all types of property, including private property, and the right to prompt, just, and effective compensation in the event private property is taken for public use;

Whereas the Paris Declaration of the OSCE Parliamentary Assembly (OSCE Assembly) in July 2001 noted that the process of restitution, compensation, and material reparation of victims of Nazi persecution has not been pursued with the same degree of comprehensiveness by all of the OSCE participating countries;

Whereas the OSCE Assembly passed a resolution during the 10th session that urged the OSCE participating countries to ensure that they implement appropriate legislation to secure the restitution of, or compensation for, both property loss by victims of Nazi persecution and property loss by communal organizations and institutions or their successors during the Nazi era, irrespective of the current citizenship or place of residence of victims or their heirs, or the relevant successor to communal property;

Whereas the Government of the United States has, since 1947, with the passing of Military Law 59 in the occupied American Zone of Germany, supported the return of

property looted during the National Socialist era to the rightful owners, or the heirs, of such property;

Whereas during the last decade, Congress has passed resolutions that endorsed, reiterated, and emphasized the long-standing support of the United States for the restitution and compensation for property illegally confiscated during the Nazi and Communist regimes;

Whereas some post-Communist countries in Europe have taken steps toward compensating victims whose property was seized and confiscated by the Nazis during World War II or subsequently seized by Communist governments after World War II;

Whereas the legislation addressing the return of or compensation for such confiscated property enacted by post-Communist countries in Europe has, in various instances, not been implemented in an effective, transparent, and timely manner;

Whereas private properties were seized and confiscated by the Nazis in occupied Poland during the Nazi era and by the Communist Polish government after World War II;

Whereas Poland, virtually alone among post-Communist countries, has failed to enact any legislation that provides for a process for the restitution of, or compensation for, private property seized and confiscated by the Nazi and Communist regimes;

Whereas Jewish communal properties were seized and confiscated by the Nazis in Lithuania during the Nazi era and by the Communist Lithuanian government after World War II; and

Whereas Lithuania, virtually alone among post-Communist countries, has failed to implement legislation that pro-

vides for the restitution of, or compensation for, Jewish communal property seized and confiscated by the Nazi and Communist regimes: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That Congress—*

3 (1) praises the efforts by those countries in
4 Central and Eastern Europe that have enacted legis-
5 lation for the restitution of, or compensation for,
6 private and communal religious property improperly
7 confiscated during the Nazi and Communist eras
8 and urges each of those countries to ensure that the
9 legislation is effectively and justly implemented;

10 (2) urges the countries in Central and Eastern
11 Europe which have not already done so to return
12 looted and confiscated properties to their rightful
13 owners or, where restitution is not possible, pay eq-
14 uitable compensation, in accordance with principles
15 of justice and in an expeditious manner that is just,
16 transparent, and fair;

17 (3) calls on the Government of Poland to—

18 (A) immediately enact fair, comprehensive,
19 and just legislation so that persons (or the heirs
20 of such persons) who had their private property
21 seized and confiscated by the Nazis during
22 World War II or subsequently seized by the
23 Communist Polish government after the war

1 are able to obtain either restitution of their
2 property or, where restitution is not possible,
3 fair compensation should be paid; and

4 (B) ensure that such restitution and com-
5 pensation legislation establishes an
6 unbureaucratic, simple, transparent, and timely
7 process, so that it results in a real benefit to
8 those many persons who suffered from the un-
9 just such confiscation of their property, many
10 of whom are well into their 80s or older;

11 (4) calls on the Government of Lithuania to im-
12 mediately implement, fair, comprehensive, and just
13 legislation so communities that had communal and
14 religious property seized and confiscated by the
15 Nazis during World War II or subsequently seized
16 by the Communist Lithuanian government after
17 World War II (or the relevant successors to the com-
18 munal and religious property or the relevant founda-
19 tion) are able to obtain either restitution of their
20 property or, where restitution is not possible, fair
21 compensation;

22 (5) calls on the President and the Secretary of
23 State to continue to engage in an open dialogue with
24 the Governments of Poland and Lithuania sup-
25 porting the adoption of legislation requiring, in Po-

2 , comprehensive, and nondiscriminatory
3 restitution of, or compensation for, private property
4 that was seized and confiscated during the Nazi and
5 Communist eras and, in Lithuania, the fair, com-
6 prehensive, and just restitution of Jewish communal
7 and religious property that was seized and con-
8 fiscated during the Nazi and Communist eras; and

9 (6) calls on the Secretary of State to deliver a
10 report to Congress, every six months, regarding the
11 implementation of this concurrent resolution.

 Passed the House of Representatives September 23,
2008.

Attest:

Clerk.