The following observations from the viewpoints of international law are made on the memorandum by Department 7 on the possibilities of a treaty settlement on the treatment of Jews in the individual states of Europe:

1) The treatment of foreign citizens is usually regulated by trade and residence treaties between the country of residence and the country of origin. As such, as part of these treaties, differentiations between Jews and other citizens may be made valid for Jews. In order to remove these obligations on the part of the country of residence, regarding the treatment of Jewish citizens of their treaty security, the possibilities appear evident:

a) The states which pursue a Jewish policy similar to that of the German-Jewish community by non-bilateral treaties not to use the rights ensuing from the existing trade and residence treaties for the benefit of their Jewish citizens which are in contrast to legislation on Jews prevailing in the state of residence. The Legal Department has already pointed out this possibility in one case submitted for the Council to consider the application of German legislation on Jews to Jewish Jews residing in Germany has in question.

b) The states in question are also advised by a collective treaty that their Jewish citizens in the territory of the other treaty partners are subject to that legislation on Jews without regard to existing trade and residence treaties. Such a treaty would, of course, only be effective beyond the purview of the treaty and would therefore not affect the rights of Jewish citizens of third countries. The suggestion

of Department 7, to propose such a collective treaty between the states, is of the opinion that the modal
enlightened by Department B itself, that Italy, Spain, and Hungary will probably not at this time agree to be tied down by such an approach to the Jewish question. The collective treaty would therefore for the time being be at least confined to the smaller circle of such states as can be expected to be agreeable to such a treaty. Slovakia, Rumania, Bulgaria, and possibly Greece can be counted among these.

But even a collective treaty confined to these states would not be an easy matter to accomplish. The difficulties would arise primarily from economic considerations. The extent of the assets of Jewish citizens of the individual countries which are potential partners in the collective treaty deploited in the territory of other treaty partners are bound to be quite different. The potential partners of the projected collective treaty will therefore nearly all fear to suffer losses by diminishing protection of the assets of their Jewish citizens in other places which will not be balanced by the assets of Jewish nationals residing on their own territory. They might therefore insist on an economic adjustment of the movement of assets created by the application of the legislation on Jews on the part of the potential partner states of the collective treaty to Jewish citizens or other persons living in their territory. At least the states within whose potential signature to the collective treaty will insist on the basic that they will not have to accept on their territory their Jewish citizens living in another partner state without their protection. These difficulties enduce

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questions can probably be solved better in bilateral treaties rather than in a collective treaty. Therefore the suggestions listed under 1) would be preferable, even though it would only lead to a step-by-step realization of the aims projected by Department B.

2) The legal framework assumes that the international agreement suggested by Department B is to cover only the treatment of such Jewish citizens of potential partner states who do not reside in their home-states. The assumption of international obligations on the part of a state in regard to the treatment of a group of its citizens in its own territory makes it theoretically possible but impossible in international usage. So
assume such an obligation would, as a rule, be considered as interfering in the national sovereignty. An international agreement between states permitting a policy similar to that of Germany regarding the treatment of their own Jewish citizens in their own territory can therefore hardly be considered.

3) In respect to the treatment of Jewish citizens of states at war with Germany it is observed that here from the point of view of the other states under consideration – no members of an enemy state are involved. For instance Spain and Bulgaria are not at war with Hungary, while Hungary and Bulgaria are only at war with the Soviet Union and England, and England is at war only with the Soviet Union.

Insofar as the states under consideration are at peace with the other states of Jews residing in their territory the rights of those Jews are still governed by the laws and residence treaties prevailing between state of residence and state of nationality. A legal possibility

For the clarification of these treaty obligations see therefore only be obtained with the consent of the home state, which may not be dealt with in the case of states now engaged in hostilities with Germany.

Insofar as the states in question are themselves at war with the home states of the Jews residing in their territory the principles relevant to the conduct of enemy nationals are applicable, as was already pointed out in Document 4.

Therein together with enclosure

(handwritten) via Department 14 (1) (CHERNOrance) Initial (7)
submitted to the State Secretary

Berlin, 31 December 1944

(signature) ALBRECHT

(initials) WH (BOEDER) (1)

(initials) RS (11/12)
CERTIFICATE OF TRANSLATION

I, Wolfgang von Kévere, U.S. Dist. Ass't 156, hereby certify that I am thoroughly conversant
with the English and German languages and that the above is a true and correct translation of
document 64, No. 40-4508

Wolfgang von Kévere
U.S. Dist. Ass't 156