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Dr. Sprecher
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Interrogation of: Dr. Gustav Kuepper
6 June 1947
Interrogator: Mr. Morris Aachen
Stenographer: Miss Ann Thrash

Institut f. Zeitgeschichte
München
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- Q. Will you raise your right hand. Do you solemnly swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?
- A. I do so swear.
- Q. Dr. Kuepper, you have been a member of the I. G. Farben legal staff from 1933--
- A. From 1925.
- Q. From 1925 to the end of the war in 1945?
- A. That is correct.
- Q. And during a substantial part of this period, you were chief legal advisor in the Dyestuffs Department?
- A. Dyestuffs Sales Department.
- Q. Are you familiar with the corporate structure of I. G. Farben both as to its legal basis and practical operation?
- A. I am sorry--in general lines I am. The matter itself was dealt with by Dr. von Klerlein and the Legal Department of I. G. in Berlin.
- Q. Was I. G. Farben subject to the German law on joint stock companies?
- A. Yes.
- Q. As we understand the German law was amended in 1937 and by virtue of that amendment I. G. changed its by-laws to conform to the new law. Is that correct?
- A. Yes.
- Q. Will you please indicate the main agencies of I. G. Farben which were established pursuant to the German law?
- A. 1. The general meeting of the shareholders. 2. The Board of Advisors (Aufsichtsrat). 3. The Board of Directors (Vorstand).
- Q. What did the German law provide with respect to the general meeting of the shareholders?
- A. The general meeting of the shareholders had to pass resolutions as to the modification of the by-laws including the increase and reduction of capital. It had furthermore to pass resolutions as to the distribution of profits shown by the annual balance sheet. This balance sheet was prepared by the Vorstand and sanctioned by a joint cooperation

of the Vorstand and the Aufsichtsrat. Finally the general meeting had to act upon the members of the Aufsichtsrat.

- Q. What authority did the Aufsichtsrat of I. G. Farben have both as a matter of German law and as a matter of practical operation?
- A. The Aufsichtsrat had the general control of the business but did not have any authority to interfere with the management in itself.
- Q. Is that the extent of the authority of the Aufsichtsrat under the law or is that the authority exercised in I. G. Farben?
- A. No, that is the general authority provided for by the law.
- Q. So you are quite definite that the Aufsichtsrat could not interfere in the management of the company which the law vested in the Vorstand?
- A. Yes.
- Q. Now as to the actual operation of the Aufsichtsrat in relation to the supervision of the Vorstand?
- A. In practice the Aufsichtsrat of I. G. was of no importance at all. In general, four meetings of the Aufsichtsrat were held a year. In these meetings the Aufsichtsrat received a summarizing report of the general state of affairs and the conduct of business. As far as I know, the Aufsichtsrat never opposed to any suggestions made by the Vorstand.
- Q. As a matter of practice, who did in fact appoint the members of the Aufsichtsrat?
- A. In fact the members of the Aufsichtsrat were selected by the Vorstand, mainly by Herr Schmitz and the members of the Central Committee of the Vorstand in cooperation with the chairman of the Aufsichtsrat.
- Q. I understand as a matter of practice the members of the Aufsichtsrat were as a matter of form appointed by the general meeting of the stockholders and that the recommendations to the general meeting were made by the Vorstand, which recommendations were never challenged. Is that correct?
- A. That is correct.
- Q. Now as to the authority of the Vorstand?
- A. The Vorstand had the actual management of the company and the sole responsibility for the conduct of business.
- Q. Was that by virtue of the German law?
- A. Yes.

- Q. Did the Vorstand in fact and as a matter of practical operation fully exercise the powers of the management and fully assume and assert the authority and responsibility for its management?
- A. In matters of real importance, yes. Of course it delegated a substantial part of its work to others but it was not in the legal position to delegate its responsibility to civil law. For everything which was going on in the conduct of business the Vorstand was jointly and severally responsible.
- Q. Did the Vorstand act through committees?
- A. There were quite a number of committees.

Interrogation Continued
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- Q. You understand Dr. Kuepper you are still under oath?
- A. Yes, that is right.
- Q. You described the other day the legal basis of the corporate organization of I. G. Farben in relation to the German law as of 1937. Is that correct?
- A. That is correct.
- Q. Between the period of 1933 and 1937, how was I. G. Farben constituted?
- A. Mostly in the same way as of 1937, with one exception of importance. Up to 1937, i.e. under the old law of joint stock companies, the Vorstand had to prepare the annual balance sheet which with approving remarks by the Aufsichtsrat had to be submitted to the general meeting for approval. After 1937, the Vorstand in cooperation with the Aufsichtsrat sanctioned the annual balance sheet and it was no longer under the jurisdiction of the general meeting to approve it. The only right of the general meeting in this respect was --
- Q. You mean under the new law?
- A. Yes--under the new law was to pass resolution as to the distribution of profits shown by such balance sheet.
- Q. Prior to 1937 who was responsible for the management of the company under the old law?
- A. The Vorstand, just the same as after 1937.
- Q. I understand that prior to 1937 under the old law the size of the Vorstand was something like 70 or 80 members and that the Vorstand had a working committee of about 20 members. Is that correct?

- A. That is correct.
- Q. Who exercised the powers of the Vorstand under the old law under those circumstances?
- A. The whole Vorstand but in practice matters of importance were only dealt with by the working committee of the Vorstand.
- Q. Would it be a fair statement to say that under the old law and under the practice in I. G. Farben, prior to 1937 the working committee of the Vorstand was for all practical purposes the Vorstand. Would that be a fair statement?
- A. Yes, but legally the responsibility of the whole Vorstand under the old law was not effected hereby.
- Q. Apart from legal responsibility was it the practical operation of I. G. Farben prior to 1937 for the working committee of the Vorstand to manage the business?
- A. Yes.
- Q. What was the relation of the Aufsichtsrat to the Vorstand prior to 1937. Was it different with respect to its relationship to the Vorstand that existed legally after 1937 and, if so, in what respects?
- A. Practically it was the same but there was a difference as follows: Prior to 1937 and even partly after the year 1937, some members of the Aufsichtsrat were the top men of the three decisive firms of I. G., example given, Duisberg, Oppenheim, Carl von Weinberg, Arthur von Weinberg, Edmund Ter Meer, father of Fritz Ter Meer, Geheimrat Hauser, who on account of their former position practically had some influence on the management. All these aforementioned men gradually resigned before and after 1937.
- Q. Resigned from the Aufsichtsrat?
- A. They died.
- Q. These people that you mentioned were members of the Aufsichtsrat. Is that correct?
- A. That is correct.
- Q. They were not members of the Vorstand?
- A. That is correct.
- Q. Prior to 1937 could any of these people who you have mentioned have interfered legally with the Vorstand?
- A. Legally, not.

Q. Is it a fair statement to say then that by virtue of their personal influence they could suggest to the Vorstand certain actions which would probably be taken but that the Vorstand did not have to, if it chose not to do so, accept those suggestions. Is that a fair statement?

A. Yes. I forgot to name one man, Dr. Kalle. He remained in the Aufsichtsrat until the seizure of I. G. in 1945.

Q. Did the Aufsichtsrat prior to 1937 have a committee known as the Verwaltungsrat?

A. Yes, but I do not remember until what date it remained in existence.

Q. Is it correct that the Verwaltungsrat was a committee of the Aufsichtsrat?

A. Yes, that is correct.

Q. What was its organization and its functions?

A. It was a so-called select committee of the Aufsichtsrat and as far as I know it mainly dealt with personnel questions of the Aufsichtsrat.

Q. What do you mean by personnel questions--appointments?

A. For instance, appointment of the members of the Vorstand which however had to be referred to the whole Aufsichtsrat, i.e., legally. In practice the Aufsichtsrat always followed suggestions of the Verwaltungsrat. It may be, but I am not sure, that for the rest the Verwaltungsrat had also to deal with matters of importance and urgency. The legal basis, as far as I remember, of the Verwaltungsrat was laid down by the law and the by-laws as well, which provided that the Aufsichtsrat had the right to install select committees of the Aufsichtsrat.

Q. Under the law as it existed prior to 1937, the Verwaltungsrat could not have any greater authority than the Aufsichtsrat had. Is that correct?

A. Legally that is correct.

Q. And you indicated a minute ago that under the law as it existed then the Aufsichtsrat could not legally interfere with the Vorstand with respect to the management of the business. Is that correct?

A. That is correct.

Q. Would it be a correct statement to say that with respect to the responsibility for the management of the company the situation before

1937 was the same as the situation after 1937. That is to say in both cases the Vorstand was responsible for the management of the company and actually did look after the day-to-day management.

A. Yes.

Q. Is it a correct statement to say that as respects the responsibility of the Aufsichtsrat for the management of the company, its position before 1937 was the same as its position after 1937?

A. Yes, with the one exception, as far as I remember, of the approval of the annual balance sheet.

Q. That exception you have already referred to previously. Prior to 1937 the Working Committee of the Vorstand, I understand, consisted of about 20 members. Is that correct?

A. That is correct.

Q. Was the personnel of the Working Committee substantially the same as the Vorstand which existed after 1937?

A. Yes, but of course, some members of the Working Committee of the Vorstand resigned or died after 1937 and some new members of the Vorstand were appointed after 1937.

Q. Of the members who were on the Vorstand after 1937, were the majority of those members also members of the Working Committee before 1937?

A. As far as I remember, yes.

Now you have prepared Dr. Kuepper a statement setting forth the committees which the Vorstand created and you have indicated the function of each of those committees. I am going to have that statement transcribed into the record and made a part of the record.

The board of directors (Vorstand) of I. G. Farben installed quite a number of committees. Some of such committees were installed by the Vorstand as a whole, namely in those cases where matters of common interest to the whole organization of I. G. were concerned. In other cases where matters were concerned which referred to a special department only, they were installed by that member of the Vorstand which was the head of such department (e.g. Sparte I, II, or III).

The general purpose of such committees was, on the one hand to give mutual information to the members, on the other hand to discuss and decide matters which were within the field of the committee

concerned. The decisions relating to matters of some importance were not final, but only recommendations to the Vorstand which action should be taken. For this purpose the chairman gave a report on each meeting of the committee, in most cases at the next meeting of the Vorstand, to the Vorstand. These committees were not part of the legal corporate structure and not provided for by law, nor by the by-laws of I. G.

I beg to mention the following committees:

Commercial Committee (K.A.) - Chairman: v. Schnitzler. The purpose was the discussion of, and the mutual information on all commercial questions of common interest, and to coordinate the actions to be taken in the commercial field. All members of the Vorstand which were the heads of or otherwise active in the sales or finance departments, were members of the K.A., in addition also other selected leading persons of such departments, even if they were not a member of the Vorstand. Also other members of the Vorstand, though not as ordinary members, took frequently part in the meetings of the K.A. The K.A. included two managers of the Stickstoff-Syndikat (nitrogen syndicate) and one member of the board of the Dynamit A.G., a subsidiary of I. G.

Technical Committee (T.A.) - Chairman: Dr. Ter Meer. It had practically the same functions in the technical field as the K.A. had in the commercial field. It consisted of the technical members of the Vorstand and other selected leading technical men, and the chief accountant of I. G., Dir. Denker. But practically all other members of the Vorstand also attended, in most cases, the meetings of the T.A. As far as I know the Vorstand very seldom or even never opposed to the suggestions of the two aforementioned committees, the reason will probably be that most of the members of the Vorstand had already taken part in the meeting of the committee concerned.

Legal Committee (Rechtsausschuss) - Chairman: Dr. v. Knieriem. It covered the whole legal field including taxes, but not including patents. Members of such committee were the lawyer-members of the Vorstand and any other lawyers of I. G. who at least had the rank of a procurist. Its main purpose was a mutual information. Meetings were cooperatively seldom held, decisions were passed on very rare occasions. I do not know of any case in which it was overruled by

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the Vorstand, but I do not know either if all of its rare decisions were submitted to the Vorstand for approval, and which of them.

Patents Committee (Patentkommission). It covered the whole field of patents and trade-marks. As to my knowledge Dr. v. Krieger was the only member of the Vorstand who was a member of such committee. The other members were the heads of the various patent departments. Chairman was Dr. v. Krieger.

Chemical Committee (Chemischer Ausschuss, "Chema"). It covered the whole field of chemicals (not including nitrogen and oil) and dealt with all important commercial questions and with some technical questions of principal nature also. It consisted of the leading commercial men and lawyers in the sales-combine chemicals and Dr. Kühns, technical member of the Vorstand. Chairman was Weber-Andreas and after his death v. Schnitzler (as far as I know).

Dyestuffs Committee (Farbenausschuss). Its field included dyestuffs, intermediates and auxiliaries in commercial respect and, to a certain extent (production, new processes, inventions, etc.) in technical respect. Members were: v. Schnitzler, Waibel, the heads of the various dyestuffs sales departments in Frankfurt, the heads of the dyestuffs production in Leverkusen, Höchst and Ludwigshafen and the head-colorist and myself. Chairman: Dr. v. Schnitzler.

There was a select committee of the Farbenausschuss "engerer Farbenausschuss". It was composed of Dr. v. Schnitzler (chairman), Waibel, Dr. Walther (until about 1941), Dr. Ziegler, Köhler, Eckert and myself (from about 1941). It mainly dealt with questions of the staff and with urgent matters. In the time of the war it had only a few meetings.

Other organizations of I. G. of interest:

Directors-meeting (Direktionsbesprechung) Leverkusen. It covered all questions of interest or importance relating to the sales combine pharmaceuticals and the factory-combine Lower Rhine. Members were all Vorstand members and titular directors of said combines. I believe, but I am not sure that there were similar meetings in Höchst, Ludwigshafen, Bitterfeld, Berlin, etc.

Directors meeting (Chefbesprechung) in Frankfurt. It covered all questions of interest or importance relating to the sales-combines dyestuffs and chemicals (Verkaufsgemeinschaften Farben and Chemikalien) in Frankfurt. It was established sometime after the outbreak of war. Members were all Vorstand members and titular directors (with a few exceptions) working in the big building of I. G. in Frankfurt. It was installed by Dr. v. Schnitzler (chairman) in cooperation with Weber-Andreas, the then head of the sales combine chemicals. Any and all questions were discussed (including e.g. price regulation, enlistment of men by the army) and report on all interesting happenings was given. Mostly it was a preliminary discussion only, the final discussion taking place in the K.A. etc. as far as matters of general importance were concerned.

In addition to the above-mentioned committees, there were numerous technical committees. I beg to mention: technical (engineers) committee (Teko), intermediates committee (I.K.), azo-dyes committee, and various sub-committees, mostly in the technical (chemical) field.

The actual management of I. G. was organized as follows:

Three big technical departments (Sparten)

- Sparte I - Nitrogen and oil (Dr. Schneider)
- Sparte II - Dyestuffs, chemicals, pharmaceuticals (Dr. Ter Meer)
- Sparte III - Photographicals, rayon (Dr. Sajewski)

Four big commercial sales departments (Verkaufsgemeinschaften):

- Dyestuffs (v. Schnitzler)
- Chemicals (Weber-Andreas, after his death v. Schnitzler)
- Pharmaceuticals (Mann)
- Photographicals and rayon (Otto)

(Nitrogen was sold by the Stickstoffsyndikat, oil (gasoline) by the Deutsche Gasoline).

The aforementioned men were the leaders of said Sparten and Verkaufsgemeinschaften, over which they had full jurisdiction. But legally seen, the joint responsibility of the Vorstand under the Joint Stock Company Law was not affected hereby nor by the above-mentioned committees.

Q.. I notice toward the end of that statement you state that the actual management of I. G. was organized as follows: The 3 Sparten and the 4 big commercial departments such as dyestuffs, chemicals, pharmaceuticals, photographicals and rayon. Were the Sparten and the commercial departments just mentioned subordinate to the authority of the Vorstand?

A. Yes.

Q. These technical departments and commercial departments just referred to were nothing more than the administrative organization of I. G. Farben set up to carry out the policy set forth by the Vorstand. Is that correct?

A. Yes.

Q. These technical departments and commercial departments were the operating media of the company. Is that right?

A. Yes.

Q. Did these technical departments and commercial departments have to report to the committees of the Vorstand?

A. No, they had to report to the whole Vorstand.

Q. Let's take the technical departments--did they report to the TEA committee or did they report to the whole Vorstand?

A: They reported first to the TEA on technical matters and to the K.A. on commercial matters and then in their capacity as chairman of the respective committees concerned reported to the Vorstand. But it may be that some of the Sparten and the commercial departments may have reported directly to the Vorstand without previously reporting to the TEA or the K.A.

Q. Could the Vorstand have directed and controlled the Sparten and the commercial committees as they saw fit?

A. Yes.

Q. No doubt about that?

A. Yes, the Vorstand was omnipotent.

Q. And as a matter of practical operation of a business, was the Vorstand informed on the general policy which the Sparten and the commercial departments were following?

A. Yes.

Q. On the general policy?

A. Yes.

- Q. Is there anything else in the German law on the authority of the Vorstand which you believe we ought to know in this connection?
- A. I believe not.
- Q. Do you feel we have accurately indicated the legal authority of the Vorstand and the practical authority which it exercised from day-to-day and do you believe that we have fairly indicated the extent of its authority?
- A. Yes.
- Q. In 1930 you were attached to the legal department of the dyestuffs sales department and you continued in that position until 1946.
- A. Yes, but after about 1938 or 1939 I was the head of the legal department of the dyestuffs sales department.
- Q. And in the course of your duty, were you informed as to the manner in which I. G. Farben operated?
- A. Yes.
- Q. And the information which you have just given as to the legal organization of I. G. Farben and as to its operation, is that based on your knowledge as a lawyer acquired from your experience with I. G. Farben.
- A. Yes. My above given statement as to the corporate structure of I. G. and its inside organization is based upon my own legal knowledge and the experience and the information I obtained in the course of my service for I. G. Farben.

25. 11. 12

und vom 12. 6. 47

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ERKLÄRUNG UNTER EID
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1948/56

Ich, Dr. Gustav Ruepper, Frankfurt a. Main, Grotzschestr. 15
früherer Leiter der Rechtsabteilung der Verkaufsgemeinschaft Farben
der I.G. Farbenindustrie A.G., nachdem ich darauf aufmerksam
gemacht worden bin, dass ich mich wegen falscher Aussage straf-
bar mache, stelle hiermit unter Eid freiwillig und ohne Zwang
folgendes fest:

Mir sind zur Auffrischung meines Gedächtnisses die fol-
genden Dokumente vorgelegt worden: RI - 6353, RI-6354, RI-6355,
RI - 6352, die Niederschriften ueber Sitzungen des erweiterten
Farbenausschusses aus den Jahren 1938 und 1939 darstellen. Aus
diesen Dokumenten ergibt sich, dass die sogenannte N-Frage so-
wohl in Erweiterten Farbenausschuss als auch in Kaufmännischen
Ausschuss behandelt worden ist. Die N-Frage wurde im Erweiterten
Farbenausschuss entweder als selbständiger Punkt der Tagesord-
nung oder als Vorbesprechung fuer eine Sitzung des Kaufmänni-
schen Ausschusses oder als ein Bericht ueber die Behandlung die-
ser Frage im Kaufmännischen Ausschuss behandelt.

Ich habe Kenntnis der sogenannten N-Frage aus folgendem:
Ich war seit 1930 Jurist in der Rechtsabteilung der Verkaufs-
gemeinschaft der I.G. Farbenindustrie A.G. und etwa ab Ende
1938 Leiter dieser Rechtsabteilung; ausserdem war ich etwa ab
1932 Mitglied des sogenannten Erweiterten Farbenausschusses, in
dem diese Frage häufig behandelt wurde.

Ich war dagegen nicht Mitglied des sogenannten Kaufmänni-
schen Ausschusses (KA) der I.G., habe aber an einigen Sitzungen,
etwa 4 - 5 insgesamt, als Gast teilgenommen, wenn mein eigent-
liches Arbeitsgebiet berührende Fragen zur Erörterung standen,
z.B. Fragen des Preisrechtes, der Gewinnabfuhrung u. dgl. So-
weit ich mich erinnere, habe ich aber an den Sitzungen des Kauf-

kaufmännischen Ausschusses in einigen Fällen erst im Kriege teilgenommen. Bei diesen Sitzungen des kaufmännischen Ausschusses, aber keines Wissens auch praktisch in allen anderen Sitzungen, sowohl im Kriege als auch etwa ab Beginn ¹⁹³⁸ 1948, wurde regelmäßig die M-Frage als Punkt der Tagesordnung erörtert.

Die Tatsache, dass auch in den anderen Sitzungen die M-Frage regelmäßig behandelt wurde, ist mir deshalb bekannt, weil ich die Protokolle der Sitzungen des kaufmännischen Ausschusses meistens gelesen habe.

Bei der M-Frage, die im Erweiterten Farbausschuss behandelt wurde, handelte es sich u.a. um folgendes: Die I.G. Farbenindustrie war vermutlich zu Beginn des Jahres 1938 von der Wirtschaftsgruppe Chemische Industrie bzw. deren Geschäftsführer Dr. UNSCHWITZER, der wohl auf Anweisungen anderer mir nicht bekannter Stellen handelte, aufgefordert worden, ein sogenanntes Fabrikations-Programm aufzustellen; dieses Fabrikations-Programm befasste sich einmal mit der Frage, an welcher Stelle im M-Fall, hierunter war der Mobilisierungsfall, also praktisch der Krieg verstanden, eine Fabrikation weitergeführt werden konnte unter Berücksichtigung der Tatsache, dass gewisse Werke in unmittelbarer Feindnähe lagen, wie z.B. das Werk Ludwigshafen/Oppau. Dieses Fabrikations-Programm sollte weiterhin eine Aufstellung darüber machen, welche Produkte und in welcher Menge im Kriege weiter fabriziert werden durften oder sollten. Dieses Programm bezog sich natürlich in erster Linie auf kriegswichtige Produkte, erfasste aber auch Produkte fuer den zivilen Sektor, insbesondere nach der Richtung, welche Mengen im Kriege fuer den Zivil-Sektor ueberhaupt noch produziert werden durften. Da man auf dem Gebiet des Farben-Verkaufs der I.G. befürchtete, dass Farbstoffe als im wesentlichen zum Zivil-Sektor gehoe-

rig, als nicht kriegswichtig betrachtet werden wuerden und eine starke Einschränkung der Farben-Fabrikation befuerchtete, war man in dieser Frage besonders lebhaft interessiert, und dies war gerade mit ein Gegenstand der Erörterungen im Erweiterten Farben-Ausschuss.

Ein weiterer Gegenstand der M-Frage war die Frage der Einziehungen von Personal zur Wehrmacht. Meines Wissens ist diese Frage vor dem Kriege ^{weder} im Erweiterten Farbensausschuss noch in KA in einem sachlichen Detail irgendwie behandelt worden. Es kann aber sein, dass diese Frage kurz gestreift wurde. Wenn spaeterhin in KA die M-Frage in meiner Gegenwart behandelt wurde, so ist mir nur erinnerlich, dass sie u.a. die ganzen Fragen der Einziehung zur Wehrmacht, die Altersklassen, die Frage der U S -Estellungen von wichtigen Leuten und Spezialisten umfasste. Es wurden auch regelmässig die sich jeweils aendern- den Einziehungsplaene der Wehrmacht eingehend besprochen.

Ich habe diese drei (3) Seiten dieser Erklarung unter Eid sorgfaeltig durchgelesen und eigenhaendig gegengezeichnet, habe die notwendigen Korrekturen in meiner eigenen Handschrift vorgenommen und mit meinen Anfangsbuchstaben gegengezeichnet und erkläre hiermit unter Eid, dass ich in dieser Erklarung nach meinem besten Wissen und Gewissen die reine Wahrheit gesagt habe.

Unterschrift.

Sworn to and signed before me this 12th day of June 1947 at
Nuremberg by Dr. Gustav EUEPPER, known to me to be the person
making the above affidavit.

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ARTHUR T. COOPER
U.S. Civilian, AGO number B 43453
Interrogator, Office of Chief
of Counsel for War Crimes.