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MEMORANDUM FOR THE FILES

January 11, 1946

Subject: Policy in view of the issuance of General License No. 95 re the consideration on the basis of facts of applications calling for the unblocking of the accounts of persons permanently outside of blocked countries.

The Staff considered today the question of the extent to which we should be prepared to consider on the basis of the facts applications calling for the unblocking of accounts of persons permanently outside of blocked territory. With the issuance of General License No. 95 we adopted the policy of not reviewing on the basis of the facts applications relating to the unblocking of persons within territory to which the procedure of General License No. 95 is, or may soon be, applicable. As a major exception to this policy we had some time ago decided that American citizens or companies owned by American citizens could be considered on an individual application basis even though within blocked territory.

The area of cases considered today is generally described by the following characteristics:

1. The persons in question are not necessarily American citizens but are outside of blocked territory for more than a temporary period (i.e. Frenchmen in the United States on permanent visas; Brazilian citizens in the United States or Latin America; etc.);

2. the blocked assets are within the United States; and

3. the assets are so held that the issuance of the license is sufficient to permit the persons to use or dispose of the funds (i.e. no further payment orders, instructions, etc. which could not be given by the persons outside of the jurisdiction of the blocked country would be required). In general the issue can be stated as follows: "Should we be prepared to consider on the basis of the facts cases in which both the funds and the persons claiming beneficial ownership are outside of the jurisdiction of a blocked country or should we refuse to consider such cases on their merits and require the unblocking by certification of the Government of the blocked country?

After thoroughly canvassing all considerations bearing on the problem it was decided that cases of the type described above should be considered on the basis of the facts involved and that Foreign Funds Control will issue unblocking licenses where we are fully satisfied that there is no enemy interest, direct or indirect, in the assets and that no other consideration warrants a reference of the case to a foreign Government.

O. A. Schmidt

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FEDERAL RESERVE BANK
OF NEW YORK

FISCAL AGENT OF THE UNITED STATES

MEMORANDUM

January 14, 1946

To: Elting Arnold, Esq.

From: Harding Cowan

Mr. Timoney, as Secretary of the Sub-Committee of the Foreign Exchange Committee, advised me that we have pending for reply the following three questions concerning the defrosting licenses.

1. "A person who was within France on October 5, 1945, subsequently left France and was within Belgium on November 20, 1945. We have not been advised that his account has been certified under General License No. 92. Would it be necessary for us to obtain certification from both the French and Belgian Governments before we can operate the account freely?

2. "A national of Norway who was not a national of any other blocked country entered France directly from Norway on November 1, 1945 and is still within France.

   May the domestic banking institution with which he maintains an account consider such account as operating freely under General License No. 94?

3. "If a person qualifies as a Generally Licensed National under General License No. 94, are we correct in understanding, in view of the previous ruling with respect to Generally Licensed Nationals under General License No. 42, that such person retains his Generally Licensed National status should he enter a territory which is not blocked."

Since Mr. Timoney proposes to incorporate the answers as minutes of the Foreign Exchange Committee, I would appreciate your formal answers to these questions despite the fact that I may have already discussed them with Treasury Department representatives.

Harding Cowan.

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Mr. O. A. Schmidt

February 6,

Elting Arnold

Attached is a revised version of the memorandum and attachments concerning unblocking the accounts of persons permanently outside of blocked countries, which I distributed a few days ago. The questions which I desire to reopen were discussed at lunch on Friday but it was agreed not to settle them because there was insufficient time. Accordingly, I expect to reopen them when any cases arise.

Attachments

EAarnold:VG EA
1-6-46

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Mr. O. A. Schmidt

February 8, 1946

Elting Arnold

Unblocking of the accounts of persons permanently outside of blocked countries.

Upon receipt of your memorandum of January 11, 1946, concerning the unblocking of the accounts of persons permanently outside of blocked countries, I decided to prepare a more detailed analysis which would cover the whole field of certification. In my opinion, this analysis, a copy of which is attached, would be useful in crystallizing our thought and also in assisting persons who act upon applications. You will note that in two respects I would like to reopen the discussions, namely, with regard to (a) persons outside of France, other than American citizens and persons in the United States, having assets blocked as French, and (b) assets of organizations in France owned by such persons.

I am sending a copy of my analysis, together with a copy of your memorandum, to Messrs. Alk, Dyer, Gewirts, O'Flaherty, Richards and Williams, and Mrs. R. Shwartz and Mrs. M. Schwartz inasmuch as I think the analysis may be of assistance to them whether or not we reopen the questions raised above.

Attachment

EArnold:VG
2-8-46

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ANALYSIS OF CONTROL'S PRESENT POSITION WITH
REGARD TO ENTERTAINING APPLICATIONS IN LIEU
OF CERTIFICATION UNDER GENERAL LICENSE NO.
95 (USING FRANCE AS EXAMPLE.) (1)

If all of the questioned decisions below are resolved affirmatively, the certification procedure will in effect be confined to:

(1) Persons in France, other than

(a) organizations substantially owned by persons outside blocked and General License No. 94 countries,

(b) United States citizens;

(2) Organizations in "non-blocked" territory which are nationals of France by reason of the interest of persons in France;

(3) French nationals temporarily leaving France after October 9, 1945.

I vigorously protest the presumed decisions below as to organizations in France owned by persons outside and I disagree somewhat with the decision as to individuals outside France. In addition, I am sure the decisions will compromise our position regarding (a) nationals of non-blocked countries, other than the United States, who are in France and (b) joint certification of persons in General License No. 95 countries holding assets through France.

DETAILED ANALYSIS

Description of Persons	Entertainment Agreed (2)	Comment
I. In France:		
A. American citizens.	Yes	
B. Organizations owned by American citizens or persons in U. S.	Yes	Necessary percentage of ownership not determined. (3)
C. All other persons.	No	Case of Britisher, etc., in France not yet sharply presented.
II. In other blocked countries:		
	Same as under France.	
III. In United States:		
A. Resident (4) individuals, whether U. S. citizens or not.	Yes	Settled by creditor rule and analogies. (5)

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Description of Persons	Entertainment Agreed (2)	Comment
B. Non-resident (4) individuals.	No	Expressly decided only with regard to Frenchmen on temporary visa.
C. Non-blocked organizations located in U. S.	Yes	Settled by creditor rule and analogies. (6)
D. Blocked (5) organizations located in U. S.		See Note (7).
(1) Operating companies	Yes	Effected by generally licensing organizations.
(2) Holding companies	No	
E. Organizations located in France owned by persons in previous categories.		Same as rule for previous categories - see also I B.
F. Legatees of French decedents.	Yes (7)	Not conclusively discussed.
IV. In non-blocked countries except U. S.:		
A. American citizens	Yes	
B. Organizations owned by American citizens or persons in U.S.	Yes	
C. Individuals other than U.S. citizens:		
(1) French citizens (not freed by General License No. 94):		
(a) Resident	No decision	Involves analogies (a) to generally licensed national in U.S., (b) creditor rule on individuals in U. S.
(b) Non-resident	No	See III B.
(c) In Great Britain	Yes (7)(8)	
(2) Other persons.	Yes (7)(9)	
D. Organizations owned by individuals other than American citizens or persons in U. S.		
(1) Owned by persons in France (and other generally licensed countries.)	No	Covered by terms of General Licenses Nos. 94 and 95.

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Description of Persons	Entertainment Agreed (2)	Comment
(2) Owned by persons in other countries, other than those excepted from General License No. 95.	Yes (7)(10)	Involves analogy to creditor rule on organizations in U.S.
E. Organizations in France owned by persons in previous categories.	Yes (7)(11)	
F. Legatees of French decedents.	No decision	

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MEMORANDUM FOR THE FILES

February 26, 1946

Re: Defrosting discussions held with members of the State Department on February 4, 1946.

At their request several members of the Economic Security Controls Division of State Department, including Walter Surrey, met in Mr. Richard's office to discuss certain aspects of our defrosting program on which they had questions. The more important matters discussed can be outlined briefly as follows:

French Assets Unblocked by General License No. 92 (now G. L. No. 95)

Mr. Maurer raised the question of the release of assets of French nationals who had been in France between June 17, 1940 and October 5, 1945 and who had left France for non-blocked countries prior to the latter date. The French raised this question in Paris (see letter No. 385 from the Treasury representative and telegram No. 180 of January 11 from the Embassy). According to these communications, the French indicated that it had been their impression that any person who was within France at any time between these two dates must have a certification prior to the release of his assets in the United States whether or not he left France before October 5 for a non-blocked country. State Department representatives sympathized with the French point of view and stated that during the defrosting negotiations it had not been clear to certain interested persons in the Department that assets of these persons would be released automatically and without certification. This position, of course, was quite astounding to the Treasury representatives as this point had been made clear to the French during the negotiations here and had also been made a part of the press release accompanying the issuance of General License No. 92 which, of course, had cleared through State Department in the form of a cable to Paris. In spite of the obvious fact that Treasury had kept both the French and State Department advised on this point, State first requested us to consider reblocking the assets of these persons with the avowed purpose of permitting the French to screen the release of assets of French nationals in unblocked countries to prevent the release of assets of collaborationists.

Mr. Richards explained fully the reasons why Treasury released these assets automatically. He pointed out, of course, that prior to the defrosting of France General Licenses Nos. 53 and 42, and many specific licenses, permitted blocked nationals within the Generally Licensed Trade Area great freedom in the use of their assets. He also expressed the opinion that during the war years most of the collaborators would already have been prevented from engaging in most financial transactions through the use of the Proclaimed Lists and Special Blocked National program. In addition it was mentioned that in general it is unlikely that the French will seriously undertake the investigation of all of their nationals outside of French territory in order to take

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action against collaborationists but are probably mainly motivated by the desire to marshall the dollars of these persons.

State still appeared to feel that we must cooperate with the French in permitting them to take action if they so desire against collaborationists, and suggested that we consider at least specially blocking the persons on whom the French have unfavorable information. No final conclusion was reached during the meeting on this question except that State would draft a cable to the French and clear it with us.

A second question raised by the French in telegram No. 180 is their information that French nationals who leave France after October 5 are obtaining the unblocking of their assets upon arriving in the United States. We pointed out that we are confident that the banks here have not been releasing such property without certification. We further mentioned that we are considering advising the French that applications for unblocking of assets of French nationals who left France after October 5, 1945 and are in this country on a permanent visa will be considered on their individual merits.

Blocked Members of the Generally Licensed Trade Area

State Department raised the question of our proposed cable to Paris and Brussels in which we requested our representatives to advise the appropriate officials that we are considering the complete unblocking of blocked members of the Generally Licensed Trade Area and to obtain their comments. Certain State Department representatives felt that the French and Belgians would strenuously object to such a step but Mr. Surrey indicated he would clear our cable for the purpose of obtaining this reaction. The Belgians subsequently indicated that they would be happy to have us unblock their overseas colonies. The Netherlands Government has also informed Treasury that it has no objection to such unblocking of Netherlands territories in the Generally Licensed Trade Area.

Hong Kong and British Malaya

We pointed out to State the reasons for our proposed complete unblocking of Hong Kong and British Malayan assets in the United States without certification. State again appeared reluctant to agree to this proposal but indicated that careful consideration would be given to the question in State after receipt of a letter from Treasury containing this proposal and enclosing a copy of the letter we received from the British on their controls in these territories. (A letter to State and the A.P.C. setting forth this proposal is being cleared.)

Siam

We informed State of our proposal to completely unblock Siamese assets without certification in view of the insignificant amount of assets and

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the manner in which the bulk of the private assets is held. As State could give no commitment on this subject we indicated we would present all the facts concerning Siamese holdings in the United States in a letter and would also obtain the views of the A.P.C. on the subject. (Letters are being cleared in Treasury for this purpose.)

Currency Controls

State appeared puzzled by outstanding Treasury regulations whereby United States currency in any denomination may be sent to countries licensed in General License No. 94 but is subject to General Ruling No. 5 upon its importation into the United States if in denominations over $20. We pointed out that, with the end of the war, we had to relax our controls sufficiently to avoid undue interference with travelers, but that at the same time we felt we could hold the line on importations of large bills, at least for the time being.

M. L. Bell

M. L. Bell

CC: Messrs. Richards, Schmidt, Arnold, O'Flaherty, Mrs. M. Schwartz, Mrs. R. Shwartz.

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My dear Mr. Secretary:

In recent discussions held between representatives of my Department and members of the United States Treasury, it was indicated that you are now prepared to consider a substantial relaxation of the American regulations governing the freezing of French assets. It was emphasized that in the exercise of its control over French assets in the United States, your Department has been inspired by the principles and aims which were solemnly set forth in the United Nations Declaration of January 5, 1942, and Resolution No. VI of the United Nations Monetary and Financial Conference, both of which, as you know, have been fully endorsed by my Government. Application of these principles by Foreign Funds Control of your Department has effectively prevented the enemy from looting French assets in the United States during the war to the great detriment of the common enemy and to the advantage of the French people.

I have studied the draft of a general license which has been transmitted to me by your representatives. I confirm in connection therewith my agreement on the following points:

1) The Ministry of Finance will assume the responsibility for carrying out the procedure of certification provided for by the license. No property will be certified until the French Government has ascertained, by appropriate investigation, that the property is not excluded from the benefits of the license. Moreover, in regard to accounts which may from time to time be specifically designated by the United States Treasury, my Department will consult with yours prior to making the certification provided for in the proposed general license.

2) No transaction will be effected or authorized under the license:

a) If such transaction would facilitate the completion of transactions which were initiated by or under the direction of an enemy or which might further the interests of an enemy or of persons acting upon behalf of an enemy;

b) If such transaction would change the status quo of blocked property in the United States, in which an enemy has an interest, direct or indirect.

3) As to the property of any partnership, association, corporation or any other organization, established in accordance with the laws of France which, by reason of the interests of persons not resident in France is a national of another blocked country, no certification will be made until full assurances

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7) It is understood that nationals of the United States holding assets in France shall be authorized to administer such assets and their income within the framework of the controls and regulations of the French Government without the application of measures to them which would be discriminatory in relation to nationals of any other country. My Government will immediately proceed to remove all restrictions on the assets of nationals of the United States imposed under Ordinance No. 43-85 of January 15, 1945 respecting control of foreign assets in France and Decree No. 45-101 of the same date in application of the ordinance, or any similar regulation, decree, or legislation except in particular cases in which my Government has reason to believe that retention of control is necessary to prevent the transfer of property in which any enemy has an interest or the enjoyment of benefits from transactions initiated by or on behalf of an enemy.

With respect to transfers from the franc zone to the United States, the Ministry of Finance intends to pursue a policy of liberalizing exchange control restrictions to the fullest extent that French foreign exchange requirements will permit. In this respect the Ministry of Finance is now prepared to authorize the transfer to the United States of franc balances arising from personal earnings, business earnings, dividends, interest, royalties and similar current payments, including the balances emanating from said sources which have accrued during the war, as well as payments for purposes of commercial transactions and current business.

The Ministry of Finance, moreover, will carefully study requests for transfer of capital from France to the United States when transfers of that type might serve a useful economic or commercial purpose.

Attached is an English translation of this letter upon which it is agreed your Department may rely.

Accept, my dear Mr. Secretary, the expression of my high esteem."

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Treasury Department
Foreign Funds Control

GENERAL LICENSE NO. 92

TRANSACTIONS ON BEHALF OF, OR INVOLVING PROPERTY OF, FRANCE AND ITS NATIONALS.

(1) Certain transactions involving France or nationals thereof or relating to French property authorized. A general license is hereby granted licensing any transaction referred to in Section 1 of the Order if (i) such transaction is by, on behalf of, or pursuant to the direction of France or any national thereof, or (ii) such transaction involves property in which France or any national thereof has at any time on or since the effective date of the Order had any interest, provided that:

(a) Such transaction (i) is not by, or behalf of, or pursuant to the direction of any blocked country or any national thereof, other than France or any national of France, and (ii) does not involve property in which any blocked country or any national thereof, other than France or any national of France, has at any time on or since the effective date of the Order had any interest; and

(b) No payment, transfer, or withdrawal, or other dealing with respect to

(i) any property in which on the date hereof any of the following has an interest: (A) Any person within France; or (B) any partnership, corporation, association, or other organization which is a national of France by reason of the interest therein of a person within France; or

(ii) any income from such property accruing on or after the date hereof

shall be effected under, or be deemed to be authorized by, this license unless a designated agent of the Government of France has certified in writing that the Government of France has determined that no blocked country or national thereof, other than France or any national of France, has at any time between the effective date of the Order and the date of the certification, had any interest in such property.

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(2) Certain other transactions authorized. This general license also authorized any transaction which could be effected under General License No. 53 if France were a member of the generally licensed trade area, provided that this paragraph shall not be deemed to authorize any payment, transfer, or withdrawal, or other dealing, with respect to any property which is subject to proviso (b) of paragraph (1) hereof, unless certification has been made thereunder.

(3) Application of license to nationals of France who are also nationals of other blocked countries. The provisions of paragraph (1) hereof shall not apply with respect to any national of France who is also a national of any other blocked country, provided, however, that for the purpose only of this general license the following shall be deemed not to be nationals of any blocked country other than France:

(a) Any individual residing in France, except any citizen or subject of Germany or Japan who at any time on or since December 7, 1941 has been within the territory of either such country or within any other territory while it was designated as "enemy territory" under General Ruling No. 11;

(b) Any partnership, association, corporation, or other organization organized under the laws of France, unless it is a national of Germany, Japan, Bulgaria, Hungary or Rumania.

(4) Waiver of General Rulings Nos. 3 and 17 and Public Circular No. 14. The provisions of General Rulings Nos. 3 and 17 and Public Circular No. 14 are waived with respect to any transaction effected under this license.

(5) Definition. As used in this general license, the term "France" shall include France and any colony or other territory subject to the jurisdiction of France.

Secretary of the Treasury

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b) If such transaction would change the status quo of blocked property in the United States, in which an enemy has an interest, direct or indirect.

3) As to the property of any partnership, association, corporation or any other organization, established in accordance with the laws of France which, by reason of the interests of persons not resident in France is a national of another blocked country, no certification will be made until full assurances have first been obtained from the Government of the other country to the specific effect that no national of Germany, Japan, Bulgaria, Hungary, or Rumania is involved in the ownership or control of such interests. For reasons of simplification, however, the French authorities will, on their own responsibility, certify property of any organization in which the proportion of interest held by persons not residing in France is less than twenty-five per cent.

4) If property in which there is an enemy interest is transferred under the license inadvertently or by mistake, your Department will be consulted and, at its request, such property or its equivalent will be restored to the account in which it was held before being transferred, or to such other account as you may designate, but only to the extent to which such property or its equivalent may be found among the assets of the acquirer or of the original owner.

5) Our two Departments will make joint efforts with a view to investigating and controlling all German and other enemy assets both in the United States and in France in order to deprive war criminals and potential leaders of the enemy underground of means of existing and of jeopardizing the peace. In particular, our two Departments will take all steps necessary to prevent the financial facilities which our two countries may grant each other from being utilized by any person subject to French or American jurisdiction in such manner as might allow enemies or their agents to conceal assets in the United States or in France. Our two Departments will exchange all information required to carry out this task, and in particular the French Government, which has already undertaken a vigorous program to eliminate economic and financial enemy interests in France, will keep yours fully informed with regard to property held in the United States under a French name when it has reason to believe that there is any enemy interest, direct or indirect, in such property. My Department will likewise furnish yours with all information concerning French institutions which hold in the United States property in which an enemy might have an interest.

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MEMORANDUM FOR THE FILES

November 13, 1944.

Re: Defrosting of Norwegian Accounts.

Messrs. Colbjørnsen and Oftedal of the Norwegian Embassy came to Mr. Schmidt's Office this morning to discuss the treatment of Norwegian funds after the liberation of Norway. Present for Treasury were Messrs. Schmidt, Bennett, Alk and O'Flaherty.

Mr. Colbjornsen explained that the Norwegians intend to institute a foreign exchange control which they will maintain only as long as absolutely necessary, and he said they would like to discuss our plans for the unblocking of Norwegian assets in the United States.

Mr. Schmidt stated that we should take as an underlying premise to our discussion the principle that the Treasury desires and intends to lift the controls as rapidly as possible. He went on to say that there are certain general categories of problems, however, which must be resolved before freezing control is completely lifted and their resolution will require a certain amount of time after the liberation. The amount of time required will depend to a great extent, he stated, upon the promptness with which the Norwegian Government will institute adequate controls. The types of problems referred to were those which have been discussed with the Belgians and the Dutch and cover the following areas:

1. Measures must be taken to prevent the completion of transfers initiated under duress. Such protective measures will have to be maintained for some time. To this the Norwegians agreed completely.

2. In releasing the Norwegian funds, measures must be initiated to protect American creditors who have claims against funds in the United States of Norwegians. Mr. Colbjørnsen inquired as to whether Mr. Schmidt meant to say that a person in the United States who has a claim in krona in Norway should be paid in dollars. Mr. Schmidt replied that he meant that we do not want to divest our courts of their normal jurisdiction in such matters, explaining that before these funds are permitted to go beyond the reach of American creditors they should be given an opportunity to take recourse to the law. The Norwegians pointed out that practically all commercial debts were settled before this country broke off communications with Norway and, therefore, there are probably few Americans having krona claims which might be thrown into the courts. He stated that they propose to treat very liberally persons living in the United States who wish to exchange

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their krona for dollars with respect to their current earnings. The Norwegians are determined, however, to control capital transfers. Colbjørnsen stated that while his Government may not requisition the foreign exchange of its nationals, it will retain the right to do so, if and when Norway's foreign exchange position requires it.

3. The conflicting custodian problem was outlined by Mr. Schmidt who gave some examples of the cases in this category. He emphasized that we do not wish to undertake to investigate every case of funds held here for foreign account to determine whether there is any enemy interest in such funds. We should be in a position to be sure that the Norwegian Government will investigate and advise us of any assets in which they discover a German interest and that the Norwegian Government will not take any action with respect to such funds until after the two governments have mutually consulted concerning this type of problem. It was definitely agreed that the conflicting custodial cases should be reserved for negotiations between the interested governments.

Reiterating that we can best accomplish the defrosting of Norwegian funds when we shall have been advised of the types of controls which the Norwegians will establish, Mr. Schmidt inquired as to whether they could inform us of their present plans in this matter. Aside from certain general points the Norwegians said that they are not yet in a position to give us detailed information concerning their plans but will be glad to do so as such word reaches them from London. Their program will include among others the following features:

1. Freezing controls will be maintained by the Norwegian Government. They will scrutinize payment orders, etc., not only from the viewpoint of foreign exchange implications but from the economic warfare aspect as well.

2. They will definitely not recognize any forced transfers and will take strigent measures to deprive quislings of their war gains.

3. They will undertake a census of foreign-owned property in Norway.

4. They will probably issue a decree calling for the registration of securities and establish strict controls over the import and export of securities.

Mr. Colbjørnsen asked whether we have issued a general license of some character to the Belgian Government releasing to them the frozen Belgian assets. Mr. Schmidt said that we have not done so, that we have, however, discussed with them our thoughts about the type of license which we might issue. He explained

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that such license might take the form of a broad general license which will permit debits to blocked Norwegian accounts for payment to an account of the Norwegian Central Bank or to the Norwegian Government, or alternatively, we might agree upon some certification procedure. The Norwegians seemed to think that either technique would be very satisfactory

Mr. Colbjørnsen finally asked whether his Government might be permitted access to the information contained in our TFR-300 census. He said that it would be of considerable help to them in checking the accuracy of the census which they propose to take upon returning to Norway. Mr. Schmidt explained that he was not in a position to give a definitive answer in this matter but expressed the opinion that we would be glad to exchange information with the Norwegians on a case basis.

In conclusion, Mr. Colbjørnsen stated that he will again point out to his Government at London that Foreign Funds Control is not to be used as a permanent instrument to control trade and to enhance peace time American business interests. He said that he had always been convinced of this, despite rumors to the contrary.

E. W. O'Flaherty

CC: Messrs. Schmidt, Alk, Bennett, Richards, Day, Mrs. R. Shwartz.

EWO'Flaherty:mjs 11/14/44

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FOREIGN FUNDS CONTROL

COPY

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Department of State
Washington

File
Defrosting

In reply refer to
FMA

November 23, 1944

Dear Orvis:

I refer to previous communications with respect to consultation between the Department of State and Treasury and the Office of Alien Property Custodian, with respect to Allied assets in the United States which are either blocked or vested.

I enclose herewith a copy of a brief memorandum which I have prepared, setting forth tentative views on an agenda for discussion of this problem. You will understand that the memorandum has been prepared for discussion, and does not represent the final views of the Department of State. It would seem desirable to postpone such final formulation of views until discussion between State, Treasury, and the Custodian's Office has been held.

I should like to have your views as soon as possible, especially since certain of the other American republics have inquired as to this Government's policy toward blocked or vested Allied assets.

A copy of this letter and the attachment is being sent to Mr. Francis McNamara, Deputy Alien Property Custodian, who has been designated to deal with these problems for the Custodian. I shall be glad to arrange a meeting at your and his convenience.

Sincerely yours,

/s/ Seymour J. Rubin

Seymour J. Rubin
Assistant Chief
Division of Financial and Monetary Affairs

Enclosure:
Memorandum.

Mr. Orvis Schmidt,
Acting Director, Foreign Funds Control,
Treasury Department,
Washington, D. C.

c.c. Messrs. DuBois, Glasser, Lesser, Alk, Bennett, Richards, O'Flaherty,
Mrs. Shwartz.

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109811

MAY 11 1948

Dear Mr. Vogliolo:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your Government that, pursuant to the second part of paragraph number 4 of the letter of August 14, 1947 to the Secretary of the Treasury from Mr. Ivan Lombardo, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz
Acting Director

Mr. Vincenzo Vogliolo,
Commercial Counselor,
Italian Embassy,
1601 Fuller Street, N.W.,
Washington, D. C.

TPNelson:ebb 5/6/48

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109812

MAY 11 1948

Dear Mr. Winterstein:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your government that, pursuant to the second part of paragraph number 3 of the letter of December 27, 1946 to the Secretary of the Treasury from Minister of Finance Zimmermann, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz
Acting Director

Dr. Claus Winterstein, Attache,
Legation of Austria,
1706 Twenty-first Street, N.W.,
Washington, D. C.

TPNelson:ebb 5/7/48

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109813

MAY 11 1948

Dear Mr. Daubanton:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your government that, pursuant to the second part of paragraph number 3 of the letter of January 22, 1946 to the Secretary of the Treasury from Minister of Finance Lieftinck, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz
Acting Director

Mr. Ch. J. H. Daubanton,
E. E. and M. P.,
Netherlands Embassy,
1470 Euclid Street, N.W.,
Washington, D. C.

TPNelson:ebb 4/7/48

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109814

MAY 11 1948

Dear Mr. Hanc:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your Government that, pursuant to the second part of paragraph number 3 of the letter of April 3, 1946 to the Secretary of the Treasury from Minister of Finance Srobar, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz
Acting Director

Mr. Josef Hanc,
Minister Plenipotentiary,
Embassy of Czechoslovakia,
2349 Massachusetts Avenue, N.W.,
Washington, D. C.

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109815

MAY 11 1948

Dear Mr. LeGallais:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your Government that, pursuant to the second part of paragraph number 3 of the letter of April 8, 1946 to the Secretary of the Treasury from Minister of Finance Dupong, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz
Acting Director

Mr. Hugues Le Gallais,
E. E. and M. P.,
Legation of Luxembourg,
2200 Massachusetts Avenue, N.W.,
Washington, D. C.

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109816

MAY 11 1948

Dear Count Ahlefeldt:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your Government that, pursuant to the second part of paragraph 3 of the letter of May 24, 1946 to the Secretary of the Treasury from Mr. Villemoes, Minister of Commerce, Trade, and Shipping, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz
Acting Director

Count Benedict Ahlefeldt-Laurvig,
Financial Counselor,
Embassy of Denmark,
Room 1614, 42 Broadway,
New York, New York.

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109817

MAY 11 1948

Dear Mr. Caranicas:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your Government that, pursuant to the second part of paragraph number 3 of the letter of September 9, 1946 to the Secretary of the Treasury from Mr. Economou-Gouras, Charge d'Affaires a.i., notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rollin G. Swarts
Rollin G. Swarts
Acting Director

Mr. Constantine P. Caranicas,
Economic Adviser to the Permanent Greek
Delegation to the United Nations,
Embassy of Greece,
2221 Massachusetts Avenue, N.W.,
Washington, D. C.

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109818 MAY 11 1948

Dear Mr. Zoltowski:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your Government that, pursuant to the second part of paragraph 3 of the letter of October 19, 1946 to the Secretary of the Treasury from Minister of Finance Dabrowski, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz
Acting Director

Mr. Janusz Zoltowski,
Minister Plenipotentiary,
Embassy of Poland,
2640 Sixteenth Street, N.W.,
Washington, D. C.

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110029

MAY 11 1948

Dear Mr. Metelius:

It has come to our attention that persons residing in one country specified in General License No. 95 and who hold property in their own names through another such country may claim to the certifying agent of the latter country that they disposed of their beneficial interest in such property prior to the respective freezing dates or that at all times they had acted only as nominees.

It will be appreciated if you will inform the appropriate authorities of your Government that, pursuant to the second part of paragraph 1(b) of the letter of March 18, 1947 to the Secretary of the Treasury from Minister of Finance Wigforss, notwithstanding such claims they are required in all instances to obtain from the government of the country in which the holder of record resides the assurances specified in the above-mentioned paragraph.

They may be further informed that all countries specified in General License No. 95 are being advised to the same effect.

Sincerely yours,

(Signed) Rella R. Shwartz

Rella R. Shwartz
Acting Director

Mr. Bengt Metelius,
Financial Secretary,
Embassy of Sweden,
1900 Twenty-fourth Street, N.W.,
Washington, D. C.

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Amendment to this License . . . . . .

Extension of this License . . . . . .

Renewal of this License . . . . . .

Correspondence concerning this application .

Other (Specify)

VOLUME--1

SEE: GENERAL LICENSE NO. 94
GENERAL LICENSE NO. 95
EUROPEAN RECOVERY PROGRAM
VESTING PROGRAM
GENERAL LICENSE NO. 97

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SWISS BANK CORPORATION

GENERAL MANAGER

Basle, 16th December 1947.

12/16/47

Dear Mr. Richards,

Above all I wish to thank you for the courtesies you extended to me in Washington in November last and I would be happy if our exchange of views has been useful to clear up some of the aspects of the important problem of foreign funds control. Perhaps it may interest you to read the enclosed summary which I have prepared as a result of my conversations in Washington and with the Federal Reserve Bank in New York. I would like to emphasise that this summary represents my personal views only, though I have no doubt that they are fully shared by all banks and bankers in this country.

I avail myself of this opportunity to extend to you my best wishes for Merry Christmas and Happy New Year and remain with kindest personal regards,

Yours sincerely,

A.C. Nussbaumer

Encl. ?

Mr. John S. Richards, Ass. Director,
Treasury Department,
Washington.

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29.11.47.

Foreign Funds Control.

Summary of questions and opinions regarding the defreezing of alien capital in U.S.A.

A. Original purpose of freezing.

a) Protect non-enemy funds against enemy seizure or pressure for delivery.

b) Identify enemy property and enemy interest direct or indirect.

c) Avoid transactions benefitting the enemy direct or indirect.

B. Apparent subsequent enlargement of freezing purposes.

a) Protection of fiscal interest of foreign governments.

b) Cooperation with foreign governments to identify assets held in U.S.A. by their respective nationals and intention to facilitate surrender or forced repatriation of such funds to the governments concerned.

c) Attempt to force foreign private assets to participate in financing of European relief and longterm aid program on the ground that such financing would otherwise be an exclusive charge to American tax payer.

C. Fundamental principle for defreezing of foreign assets.

1. It has always been the traditional policy and basic principle of the United States government and many other democratic and law-abiding countries that private deposits and investments either national or foreign, entrusted to them, are protected by law and can under no circumstances be the object of :

a) compulsary compensation with credits or loans granted to foreign governments.

b) seizure or compulsary surrender to foreign governments.

c) compulsary application in U.S.A. of the fiscal and currency laws promulgated by foreign governments and applying to nationals resident in their own country only.

d) limitations or restrictions in connection with internal political problems, especially having regard to the financing of the European aid program.

2. Any interference with non-enemy foreign assets for purposes such as outlined in the preceeding alinea 1) or by way of transfer of such assets to the Alien Property Custodian would have grave repercussions all over the world and lead to numerous actions in court.

3. It is not the purpose of this note to examine the legal aspects of any such interference or compulsary measure. Above all such action would certainly be interpreted abroad as a breach of faith and trust and lead to a general disruption of confidence at a time when this confidence is already badly shaken and is in greatest need to be restored.

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December 1947.

4. The measure of success, expressed in Dollars, of any compulsary action taken by the Administration must be considered negligible.

   a) compared with the unestimable moral damage it would cause in all countries where private capital and private enterprise are almost the only constructive factors left for the future.

   b) compared with the enormous sums involved in the reconstruction of Europe and for the restauration of a sound economic system and markets in all countries.

5. What would the reaction of public opinion, of industry, commerce and financial circles in the U.S.A. be, if any compulsary and discrimate action would be taken by a foreign government against American private assets and investments? Would the U.S. Administration accept any action by a foreign government directed against or prejudicing vital private American interests? Would the U.S. government approve of any action taken by a foreign government, in support of another foreign government, directed towards identifying and prejudicing American interests and investments in such other country or countries?

6. Considering the primary purpose for which foreign funds in the U.S.A. were frozen, would it not be fait to say that since hostilities have long ceased, these funds should be surrendered at the earliest possible moment to the rightful owners, provided always that no enemy interest, either directly or indirectly is vested in such funds?

D. Transfer of foreign assets to Alien Property Custodian.

Reason for transfer.

The reason for the contemplated transfer has been described as follows :

a) The necessity to terminate foreign funds control and the certification schemes at present in force.

b) The slow progress made by the existing certification arrangements.

c) The exhaustion of the funds voted by Congress for the Office of Foreign Funds Control and the unlikelihood of additional credits being made available.

It has also been intimated that once foreign funds should have been transferred to the Alien Property Custodian the certification procedure would no longer be allowed to function. Furthermore, it appears that all foreign funds, whether enemy, non-enemy or neutral, including Swiss assets, would fall under the transfer.

It is clear that the Office of Foreign Funds Control has to be liquidated sooner or later. It may also be correct that the certification procedure has in some cases not given the expected quick results. But these facts could never justify to consider alien assets not certified within a restricted period as enemy property.

As regards Swiss assets proper, the certification system has in fact only become operative since March 1st, 1947, owing to the necessity to create the necessary organisation and machinery,

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to engage qualified staff and to prepare the detailed instructions as to the meaning and extent of the very complicated conditions laid down for the purpose. Since then, certification has made satisfactory and rapid progress in so far as physical owners of assets were concerned, whereas the conditions ruling for the certification of operating and non-operating companies, holding companies, finance trusts, family foundations & s.f. require extensive investigation and are a great obstacle to the early certification of assets of collective institutions of all kind. Until November 30th more than 2/3 of Swiss assets have been certified, and over 100,000 certificates have been issued by the Swiss Compensation Office, including those covering dollar securities physically deposited in Switzerland.

In accordance with the agreement signed between the United States and Swiss governments on November 26th, 1946, the Swiss government accepted the certification procedure and undertook to segregate all enemy assets. In view of this undertaking and the efforts made by the Swiss Compensation Office to accomplish their task in the shortest possible time, it is indispensable to give the Swiss agency the necessary time to accomplish their task; furthermore, certain complicated conditions for certification should be simplified. In any case, the Swiss Compensation Office which is responsible for the certification should not be penalised for executing their mandate with the greatest care and precision.

The transfer of Swiss assets to the Alien Property Custodian is therefore completely out of the question, since no part of these assets, except enemy assets which will be segregated by the Swiss government, is enemy property.

Concerning assets of other nationals, deposited in U.S.A. in the name of Swiss banks and other finance institution, the required prior cross-certification by the respective foreign government agency is the main obstacle to the ultimate certification by the Swiss Compensation Office and this cross-certification should be abolished. In the case of French assets held through Switzerland, the cross-certification by the French Office de Change appears totally unnecessary since the Swiss Compensation Office will only certify non-enemy property and is in fact in a much better position than the French agency to establish the enemy or non-enemy status of French assets. It is almost excluded that enemy interests were concealed or cloaked under French names before the outbreak of the war, whereas the books and correspondence of the Swiss banks will show clearly the amounts and details of assets held by residents in France at the reference date fixed by the American regulations, and substantial balances or securities added thereafter must be justified as to the origin and source where they were derived from. The required cross-certification is under present conditions no inducement but the principal reason to detain French holders from having their assets certified and no change in their attitude is to be expected even if non-certified French assets should be transferred to the Alien Property Custodian. The same applies to $-assets of residents in Italy, the more so as Italian assets in Switzerland have been freed in October 1946 without any necessity for cross-certification by an Italian government agency. How could it be justified that Italian owners of dollar assets deposited through Swiss banks in U.S.A. should submit to an Italian cross-certification when their assets in Switzerland proper were not subject to such a limitation?

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Purpose of transfer.

It has been indicated that by a transfer to the Alien Property Custodian the foreign holders of assets could be forced to register with or surrender them to their respective government or, failing this, that they could be compelled to share the American tax payer's burden by having their assets used -directly or indirectly- for the financing of their countries' reconstruction requirements in foreign currency. Both these aims would not be obtained.

First of all it seems inconceivable under the original Trading with the Enemy Act that alien assets can be treated in bulk as enemy property for the sole reason that they have not been certified within a limited period, since :

a) it is well known that enemy assets represent only an infinitesimal part of the total of foreign assets in U.S.A.

b) all governments have already taken active measures or have formally undertaken to identify and segregate enemy interests.

Apart from the questionable legal aspect of the problem, the transfer of all foreign assets to the Alien Property Custodian would defeat its main purpose to identify them, whereas it would on the contrary block these funds still further instead of bringing them nearer the ultimate unfreezing and their wluntary employment for constructive purposes.

Practical result of transfer to Alien Property Custodian.

Whereas blocked non-enemy cash balances and securities can now be used for numerous transactions within the limits of the law, especially for investment and reinvestment, their transfer to Alien Property Custodian would result in a loss to all parties concerned, but especially to the American Tax authorities. Taxable Revenue in brokerage, banking commissions, stamp, fees and income tax on collected dividends and interests no doubt amount to many million dollars a year, whereas the cost of maintaining Foreign Funds Control even for another period of a few years would hardly be worth mentioning in comparision with the great financial interests involved.

Considering all aspects of the problem, it seems clear that the transfer of the non-enemy foreign funds to the Alien Property Custodian would mean to put the clock back by a few more years, the more so as already mentioned, the certification procedure would no longer be allowed to function, each owner having to apply to the Alien Property Custodian for the release of his property. It would also retard and discourage free enterprise and represent a substantial loss of income to the Treasury, without being of the slightest use to anybody.

Above all such a measure would produce a most unwarranted shock in all international finance and business circles, which should be avoided at all costs.

In any case the transfer of the uncertified assets to the Alien Property Custodian would :

a) kill these assets as movable, income- and tax producing and constructive capital.

b) render impossible the functioning of the present system of institutional and private subsidies to residents in Europe, thereby creating more hardship, more distress, more difficulti

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c) render impossible to have these funds certified as non-enemy property and surrendered to their rightful owners for new enterprise and productive investment.

Summary.

The alleged expectation that the transfer of non-certified funds to Alien Property Custodian would induce foreign holders to register or surrender their securities or facilitate the identification and use of these funds for foreign financing purposes is totally fallacious. Apart from the fact that such a transfer would appear to be a) unconstitutional, b) contrary to the meaning of the original Trading with the Enemy Act and c) against all principles so far published by the Administration in regard to the protection of private capital and free enterprise, the transfer would have no useful effect whatsoever in so far as there would be no organization left to certify and defreeze these assets or induce them on a voluntary basis to contribute, at least in part, towards international reconstruction. It must also be considered that such a transfer to the Alien Property Custodian would be considered abroad as a first step towards seizure or confiscation, impression which should at all costs be avoided.

E. New census of alien assets.

As an alternative to the transfer of foreign assets to the Alien Property Custodian it has been suggested to have a new census made of all foreign assets with American banks and financial institutions. From a practical point of view the census would hardly give any useful information over and above that which has resulted from the first census, with the exception that many funds have since been certified and now free funds have been transferred to New York which in any case would not fall under the census. The purpose of such a new census appears therefore clearly to be to release the Administration of the undertaking given at the first census that the results would only be used for official internal purposes. There is not the slightest doubt that such an action would create grave percussions abroad inasmuch as it would certainly be interpreted as a breach of trust and confidence. The census would require enormous extra staff and work and it seems fair to say that at least one year would laps before the result of the census could be worked out for practical purposes. Furthermore, the census would only give the Administration the names of the persons domiciled abroad who entertain direct accounts and deposits of securities in U.S.A., whereas the bulk of the assets would again not be identified. In this connection it would seem strange that the census should primarily or even exclusively hit those persons who had the greatest confidence in the Administration and the banks, whereas those who had not the same confidence and preferred to deposit their capital through the intermediary of foreign banks would not be affected. Would it not be fair to say that the Administration in allowing themself to act as fiscal agent for foreign governments and as executor in U.S.A. of currency and other laws, valid only in the countries of origin would become an accessory to the fact and commit an act at least as criticable than if it surrendered directly these assets to the foreign governments concerned? It has always been an internationally accepted principle that laws promulgated by any government have only legal effect within the territory of the country concerned and it would seem strange that the U.S. government, who has always fought

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for the strict maintenance and respect of international law should be the one to take a comletely opposite attitude in respect of international private investment.

The suggestion of a new census has in part been based on the attitude taken time ago by an important allied government to cooperate with the French government in surrendering to the latter the private funds deposited in that country. Apart from the fact that it is questionable whether such an act is sufficient justification for the Administration to adopt it as well, it is a fact that the allied government in question has never made any attempt to identify or help to surrender the private French funds deposited under the name of foreign banks and that furthermore until quite recently only 15% of the direct funds held by French nationals in that country have been surrendered to the French government, which should be a clear indication of the fact that no attempt is at present being made to enforce the agreement obtained in the past.

U.S.A. and Switzerland are today the only two countries left with an entirely free currency system; both countries are creditor and lending nations and both fight against nationalisation, socialisation and against any government action directed to curtail private enterprise and free capital. Would it not seem extraordinary that at this juncture when the whole world is more than ever in need of hope, confidence and encouragement and when free enterprise is in danger in so many countries, the U.S. government should allow itself to become the instrument of a policy which is diametrically opposed to its own?

F. Financing of European aid program.

It appears that the opinion is prevailing in various circles that the American tax payer can not be expected to shoulder the whole burden of this aid program and that the huge foreign private funds deposited in U.S.A. must be used before or simultaneously to relieve at least in part the American tax payer. Furthermore the American and international banks have been reproached that they are protecting tax dodging capital and have made no attempt to induce their clients to surrender their foreign currencies to their governments who are so much in need of them. T This and similar reproaches are hardly justified, inasmuch as the b banks could not be expected to induce their clients to make an investment in which, a priori, a loss of 50 - 70% must be expected. It is true that for instance French capital has traditionally sought diversified investments in foreign currencies but it is equally true that a large part of French capital deposited abroad would return home or contribute on a voluntary basis towards the financial needs of their country if the internal economical and political conditions justified it and if the repatriation could be made without penalty and at conditions which respond more closely to the actual intrinsic value of their currency.

No measure could ever be justified which would have the purpose of forcing foreign private capital by compulsary action to repatriate or to contribute, again by compulsary measures, to the financing which the U.S. government may decide to grant certain countries of Europe. Action taken in this sense would no doubt have farreaching consequences in the future, whereas the importance of private capital which could be made available by compulsary

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measures would not be in any proportion to the general European aid required or justify the moral and material damage which would be caused by such action. The seizure or compulsary surrender of these private funds would simply deprive the foreign countries concerned of their last private reserves and resources at present available for the future, whereas they would play no constructive part in the restauration of their country under present circumstances.

The only possible way by which the contribution of private capital is obtainable must be on a voluntary basis if the U.S. government attributes really fundamental importance to freedom of trade, exchanges and capital movement as well as to free enterprise and saving. The U.S. government has the power to subject their aid to specific economic conditions which must be fulfilled by any foreign government applying for help, if the financial assistance is to continue until full restauration of sound economic and political conditions in each country concerned has been obtained. On the other hand, it is for the foreign governments concerned to create the necessary internal conditions on which they can expect from their nationals and entitles them to invite them with hope of success to surrender part of their foreign currencies or to make them available for the anonymous subscription to an international loan to be issued in due course. As long as such conditions do not prevail, it would be a grave mistake to take any action which in some way or other would affect the freedom of private capital and the protection in law to which it is entitled. Restrictions to the defreezing and free surrender of foreign assets should in any case be limited to those nationals whose countries are applying for financial help to the U.S.A. under the European aid program, whereas no reason whatsoever could ever be justified to retain or block still further other foreign non-enemy assets.

G. Conclusions :

There is no doubt that the U.S. government has a great task to fulfil in restauring confidence in the world and that it may be almost the only one able to perform this heavy task. The protection of private enterprise and private capital should be the basis for all considerations and decisions since private enterprise and private capital will be almost the only constructive factors remaining for the reconstruction of the world as it is. Any compulsary measures should be carefully avoided, whereas it would fall on the foreign governments concerned to create such conditions internally as would justify the full confidence of their own nationals.

Consequently the transfer of foreign non-certified assets to the Alien Property Custodian or the establishment of a new census of the foreign assets deposited in U.S.A. would be a great mistake apart from giving no practical results worth speaking of. Any such measure would put the clock back for several years and retard recovery and free enterprise.

The principal step to be taken at this juncture should consist to offer every facility for the certification of all foreign assets and the segregation of enemy assets.

In this connection I venture to make the following suggestions :

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1. Swiss assets proper:

   a) Simplification of the certification procedure especially in regard to companies and other institutions,

   b) Authorisation to Swiss Compensation Office to accept for certification a non-enemy declaration of authorised Swiss banks such as has been accepted already by Great Britain and Canada.

   c) Extension of the time limit for certification to say 31st December 1948.

   d) Exemption from transfer to Alien Property Custodian of all Swiss assets registered for certification with the Swiss Compensation Office at a given date and not yet dealt with.

   e) Transfer of Swiss assets not certified until 31st December 1948 to special Swiss blocked account avoiding transfer of these non-certified assets to Alien Property Custodian.

2. Assets of Swiss nationals resident in blocked countries or countries (Spain & Portugal) for whom General License No. 95 is not yet operative.

   Abolition of cross-certification by foreign government agency and authorisation to Swiss Compensation Office to accept for certification a non-enemy declaration of an authorised Swiss bank.

3. Foreign assets deposited in the name of Swiss banks in U.S.A.

   a) Abolition of cross-certification by foreign government agency.

   b) Authorisation to Swiss Compensation Office to accept non-enemy declaration by authorised Swiss banks.

   c) Complete defreezing of nationals of countries who are not applying for financial help to U.S.A. on the European aid program.

I have been asked to study a solution which would keep in mind the internal political requirements in U.S.A. in regard to the European aid program and at the same time avoid any compulsary interference with alien private investments in the U.S.A. Frankly such a solution does not exist and no compromise seems to me possible in this connection.

There can be only one acceptable solution which exists in segregating and establishing enemy interests and in surrendering without condition all the other foreign assets of whatever nationality, provided such assets have been certified as non-enemy property. Any other solution would represent a dangerous and unjustified compromise and affect :

a) the protection in law to which private foreign assets entrusted to the care of financial institutions in the U.S.A. ~~to which they~~ are no doubt entitled.

b) the principles so consistently held up in the past by the U.S.A. governments and the governments of all democratic and law-abiding countries for the protection of international confidence, private enterprise and private capital and savings.

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Nobody could disprove the fact that an overwhelming majority of the foreign investments in the U.S.A. represent non-enemy property and that enemy interest represents only an infinitesimal part of the total foreign assets entrusted to the U.S.A.

An enemy attribution to the bulk of the foreign assets, for the sole fact that a portion of these assets could not be certified within a limited period of time can therefore not be justified and a transfer of these assets to the Alien Property Custodian would constitute a violation of all accepted principles. Likewise it is expected that the U.S. government will surely not wish to appropriate non-enemy assets which certainly would be the case if the non-certified assets would be transferred to the Alien Property Custodian or be made subject to any other compulsary measure.

For the same reasons a new census of the present alien assets in U.S.A. appears unwarranted inasmuch as the aim which it is intended to reach would be in flagrant conflict with the aforementioned principles.

Any compulsary measure against foreign private investment and any cooperation with a foreign government intended to disclose or surrender to the latter such private capital would equally mean a violation of the principle to protect at all cost free enterprise and private capital and furthermore be equivalent to adopt within the territory of the United States the laws of foreign countries and enact a policy which is contrary to its own.

It must definitely be left to the foreign governments concerned to create such internal economic and political conditions as will justify the confidence of their own nationals and induce them, on a voluntary basis, either to repatriate their foreign investments or make them available for part-financing of their country's currency needs. Any other solution or policy would be directed against private enterprise and private capital and what is even more important destroy international confidence in the U.S.'s attitude towards private initiative, free enterprise and safety for private investments. Notwithstanding the financial assistance needed by various European governments, the principal requirement is that of a return of trust and confidence and in the respect of the basic principles on which alone reconstruction and international confidence can be rebuilt.

As a whole, the problem with which the U.S. Administration is faced today in regard to foreign funds is one of timing, measure and procedure. Before all, it is necessary to certify all foreign assets and to segregate these assets into non-enemy and enemy property. It is therefore most urgent that no hasty and especially no compulsary action should be taken which would in any way prejudice the final aim all democratic countries wish to reach.

I am positive that the scheme outlined above would give in due course the expected practical results and above all be in the best longterm interests of the U.S.A. and those other countries fighting for thesame sound democratic principles based on free capital movement, private enterprise and international confidence.

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FUNCTIONS OF FOREIGN FUNDS CONTROL

Foreign Funds Control, which is a part of the Office of International Finance, is presently liquidating its operations as rapidly as possible, consistent with the protection of this government's financial and security interests. Foreign Funds Control was essentially a wartime function of the Treasury Department and was primarily responsible for the planning and execution of this government's program of financial warfare against our enemies. It formulated and administered freezing controls over foreign-owned property and regulated international financial transactions under Section 5(b) of the Trading with the enemy Act, as amended, and Executive Orders Nos. 8389 and 9193, as amended.

Since the termination of hostilities, Foreign Funds Control has made extensive progress in lifting its freezing controls and liquidating its operations. Only those controls remain in operation which will assist in meeting the following three residual problems: (a) the discovery of enemy property concealed in blocked accounts in the United States of persons in certain European countries; (b) the disposition of blocked assets of eleven European countries and their nationals for which no unblocking procedure has yet been provided; and (c) control of United States dollar securities which disappeared from the European countries during their occupation by the Germans. The freezing controls have been removed over current transactions with all blocked countries except Spain and Portugal. This was accomplished through the issuance of General License No. 94 by Foreign Funds Control.

To provide for unblocking the assets in the United States of certain Eureopan countries and their nationals without jeopardizing our objective to discover concealed enemy assets, Foreign Funds Control issued General License No. 95. As of the present date, the privileges of the general license have been extended to France, Belgium, Norway, Finland, The Netherlands, Czechoslovakia, Luxembourg, Denmark, Greece, Switzerland, Liechtenstein, Poland, Austria, Sweden, and Italy. Under this general license, a certification procedure was established, which imposes on the foreign governments concerned the responsibility for investigating the real ownership of the blocked property involved. Such property in the United States is completely unblocked when, after appropriate investigation, the foreign government whose nationals are involved certifies the absence of enemy interest to the bank or institution holding such assets. The commitments of foreign governments to carry out their responsibilities in connection with this defrosting machinery are incorporated in exchanges of letters between the Secretary of the Treasury and officials of the foreign countries. This certification procedure has the incidental effect of assisting each foreign country concerned in locating and controlling the assets of its nationals who reside in its territory, since the assets must be revealed to that foreign country or must remain blocked here.

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Since there was found to be little or no cleaking of enemy assets through the Far Eastern countries, the blocking controls were removed completely from all Far Eastern countries, except Japan, without reference to General License No. 95.

No unblocking procedure has been established for the assets of the following countries: Germany, Japan, Bulgaria, Hungary, Rumania, Spain, Portugal, Estonia, Latvia, Lithuania, and Yugoslavia. Blocked German and Japanese assets, in general, are being vested by the Office of Alien Property, United States Department of Justice. Hungarian, Rumanian, and Bulgarian assets are not being released since it has not been possible to arrive at a settlement of war claims with those countries. Spanish, Portuguese, Estonian, Latvian, Lithuanian, and Yugoslavian assets are being kept blocked at the request of the State Department.

Controls over the importation of securities now apply only to those dollar securities which have been reported to the United States Treasury Department by foreign governments as having disappeared from their respective countries during their occupation by the enemy. Instructions have been issued to the issuers and paying or transfer agents of these specified securities not to pay or permit transfers on their books of such securities. Any of these securities which are imported or are refused payment or transfer are to be deposited with the Federal Reserve Bank of New York and the foreign person who claims to be the owner of the securities is thereby given an opportunity to establish, by ordinary legal processes, his title, if any, to the securities.

The liquidating operations of Foreign Funds Control are being carried out by a small staff in Washington and an equally small staff in the New York Federal Reserve Bank. As of the present time, there are 16 professionals in the Washington Office and 12 professionals in the New York Federal Reserve Office.

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COPY

Guaranty Trust Company of New York

140 Broadway

New York 15, N. Y.

December 2, 1947

51-34

Mr. Norman P. Davis, Vice President
Federal Reserve Bank of New York
Foreign Funds Control Department
33 Liberty Street
New York, New York

Dear Mr. Davis:

In accordance with your recent request we report to you herewith figures representing par value of securities held in accounts for persons residing in countries entitled to the Certification procedure of General License No. 95 and indicating the par value of securities still blocked as against those which have already been certified under General License No. 95.

Country	Par Value Securities Held in Blocked Accounts	Par Value Securities Already Certified Under General License No. 95
Austria	None	$ 2,130.45
Belgium	$ 1,871,046.26	8,660,297.79
Czechoslovakia	351,600.00	72,290.00
Denmark	2,807,816.00	3,118,031.11
Finland	35,587.00	None
France	7,740,278.95	2,145,993.00
Greece	278,118.01	69,910.00
Italy	496,810.00	None
Luxembourg	446,912.00	56,290.00
Netherlands	19,597,815.29	11,599,121.00
Norway	97,537.50	3,391,219.00
Poland	96,700.00	None

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December 2, 1947

Mr. Norman P. Davis, Vice President
Federal Reserve Bank of New York

Country	Par Value Securities Held in Blocked Accounts	Par Value Securities Already Certified Under General License No.95
Sweden	$ 498,170.00	$ 211,538.00
Switzerland	32,774,008.12	63,992,036.00
Total	$67,092,399.13	$93,318,856.35

Very truly yours,

WM. H. LEWIS
Assistant Secretary

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Secretary Snyder November 18, 1947

Thomas J. Lynch and Frank A. Southard, Jr.

U.S. Government assistance to foreign governments for the purpose of mobilizing dollar assets.

1. After considerable discussion within the Treasury, we propose to recommend to the N.A.C. Staff for reference to the N.A.C. the following conclusions on the above matter:

a. The program for the completion of the certification procedure under Foreign Funds Control regulations, which is being carried out by the Treasury and Justice Departments, though aimed primarily at discovering concealed enemy assets, will have the incidental effect of revealing blocked assets to the foreign government concerned. The blocked assets undoubtedly include the bulk of the assets in this country that have been concealed from countries scheduled to receive aid under the European Recovery Program.

b. Although there is room for doubt, no step beyond that in (a) above should be taken to assist recipient countries to locate and control the assets in the United States of their nationals, prior to approving action by Congress.

c. The question of concealed assets should be raised during Congressional consideration of the European Recovery Program. The preceding considerations should be advanced and explained with an indication that the views of Congress as to whether any additional steps should be taken would be helpful because of the serious considerations on both sides of the issue. It should be recommended to the Congress that:

(1) So far as blocked assets are concerned, this government should assist any European government scheduled to receive financial assistance under the European Recovery Program which vests title to the dollar assets of its citizens who reside in that country by providing that government with information concerning the direct holdings which remain uncertified as of the termination date of the certification procedure. This will involve the disclosure of information concerning these assets, which will in any event be required by this government to complete the program outlined in (a).

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(2) No action should be taken to assist foreign governments in locating private assets which are not blocked since the amounts involved are believed to be insignificant and the difficulties of taking action are substantial.

2. Do these conclusions have your approval?

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SECRETARY

Date 10/21/47

MR. SOUTHARD

Mr. Bartelt
Mr. Birgfeld
Mr. Clark
Mr. Delano
Mr. Foley
Mrs. Forbush
Mr. Gardner
Mr. Glasser
Mr. Haas
Mr. Julian
Mr. Kilby
Mr. Maloney
Mr. McDonald
Mr. O'Connell
Mr. Overby
Mr. Parsons
Mr. Shaeffer
Mr. Shere
Mr. Surrey
Mr. Wiggins

PLEASE PREPARE REPLY

Mr Richards

Southard
C 4 7

October 15, 1947

Secy Snyder wrote to Mr. Altman about ~~[illegible]~~ February 4, 1948, informing him of decision contained in letter from Snyder to Vandenberg of Feb 3, 1948. S.R.

letter to you first of all to
cent opportunity which you so
f the Foreign Exchange Committee,
thoughts regarding the proposed
action of our
ng with the private alien property now blocked under Treasury control. In doing so, however, I should like also to submit for your consideration some further thoughts that have occurred to me since our interview and that were not specifically mentioned in the memorandum which I handed to you at the time.

Perhaps I should explain that the Foreign Exchange Committee was formed at the request of the Treasury Department in 1939. Its members are appointed by the president of the Federal Reserve Bank of New York. While they are all connected with banking institutions, they serve on the Committee as individuals and not as representatives of their institutions. Over the past eight years the members of the Committee have discussed many problems with the Treasury Department and have always endeavored to give the best advice they could, and in this instance also I can assure you our advice represents what in our opinion would be the best course for the United States to follow over the long term.

First of all the members of the Committee believe in the effectiveness of the search already made for enemy alien assets. They realize that the Treasury and State Departments and the United States military authorities have all spent years, both here and abroad, in hunting down enemy assets, and are still continuing to do so today. For this reason we believe that the great majority of enemy assets have been discovered and that the blocked assets still under control of the Treasury Department conceal only a minor amount of enemy property.

This being so we are at a loss to understand the necessity for the drastic action now under consideration. As we understand the proposal it amounts to this: that all private alien property remaining blocked under Treasury control after April 1, 1948, is to be transferred to the jurisdiction of the

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Southeast
C 4 1

23 Wall Street
New York 8

October 15, 1947

Secy Snyder wrote to Mr. Atkin about February 4, 1948, informing him of decision contained in letter from Snyder to Vandenberg of Feb 3, 1948. FOR.

The Honorable John W. Snyder
Secretary of the Treasury
Washington, D. C.

Dear Mr. Secretary:

I am addressing this letter to you first of all to express my appreciation of the recent opportunity which you so generously gave me, as Chairman of the Foreign Exchange Committee, to put before you the Committee's thoughts regarding the proposed action of our Government in dealing with the private alien property now blocked under Treasury control. In doing so, however, I should like also to submit for your consideration some further thoughts that have occurred to me since our interview and that were not specifically mentioned in the memorandum which I handed to you at the time.

Perhaps I should explain that the Foreign Exchange Committee was formed at the request of the Treasury Department in 1939. Its members are appointed by the president of the Federal Reserve Bank of New York. While they are all connected with banking institutions, they serve on the Committee as individuals and not as representatives of their institutions. Over the past eight years the members of the Committee have discussed many problems with the Treasury Department and have always endeavored to give the best advice they could, and in this instance also I can assure you our advice represents what in our opinion would be the best course for the United States to follow over the long term.

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This being so we are at a loss to understand the necessity for the drastic action now under consideration. As we understand the proposal it amounts to this: that all private alien property remaining blocked under Treasury control after April 1, 1948, is to be transferred to the jurisdiction of the

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Department of Justice. Within two years after that date if the individual owners furnish proof that they are non-enemy aliens, their assets might be returned to them after consultation with their own governments. After that two-year period their assets would be confiscated by the United States.

As I have already indicated in the memorandum that I left with you, any such step on the part of our Government would amount to a major innovation. I believe that our Government has usually proceeded in the past only to place under the jurisdiction of the Department of Justice private enemy alien property whose ownership has been definitely established and not merely presumed. Moreover, and this to my mind is an even more important innovation, I do not think that our Government has ever taken such action with respect to the private property of friendly or neutral aliens. Yet this is precisely what the plan under consideration seeks to do.

In other words, it seems to me this is a very serious step for the United States to take. In a great many cases the non-enemy assets now blocked under Treasury control entered the United States before the war and helped to build up the industry of this country. At the time these funds arrived here, in most cases, no regulations of foreign governments forbade the movement of capital. Now, however, what the Government of this country would be doing is to penalize these friendly or neutral aliens, who placed their capital here in reliance upon American traditions of respecting private property. And we are proposing to do this, it appears, in order to force these individuals to hand their assets over to their own governments by threatening them with confiscation of their property outright for our own benefit.

Apart from all this, it seems to the members of the Foreign Exchange Committee that such a step on the part of our Government at the present time would be all the more serious because of the fact that we are endeavoring in every possible way to induce western Europe to believe in our own standards of conduct and way of thinking. The peoples of those countries will, of course, be grateful for the financial aid we give them. But they will be still more impressed by the strong bulwark of integrity and character which our nation represents. Everywhere in the world today man searches for a pillar of strength, and the United States seems now the country most likely and able to satisfy that longing. We Americans must show ourselves to be strong in every respect including our tradition of integrity and regard for property rights I believe that this is the only way we can fulfill our purposes in the broadest sense.

In addition we cannot see where, under this procedure, the foreign governments would get any immediate relief so far as their dollar position is concerned. The owners of these

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funds would have a time limit to get their funds back before confiscation. If they are not inclined to go to their respective governments for certification, their inclination would be to wait as long as possible. Also, would there not be a tendency on the part of the Ministers of Finance in the various countries to wait before taking financial steps in their own countries to coax this money back?

That is why, Mr. Secretary, I feel impelled to urge you once more on behalf of the Foreign Exchange Committee to take no action that would be tantamount to the confiscation of the private property of non-enemy aliens. This matter, as you are aware, has been discussed with the presidents of a number of the larger New York banks, and as I pointed out to Mr. Richards of the Foreign Funds Control in my letter to him of September 10th, the above view is shared completely by them.

It still seems to me that the present certification procedure could be retained, and the funds needed by the Treasury to administer the blocked accounts could be obtained by a service charge against the blocked accounts themselves.

Respectfully yours,

I. C. R. Atkin

I. C. R. ATKIN

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April 11, 1947.

Messrs. Sproul, Rouse and Logan

N. P. Davis

Disposition of uncertified blocked assets.

When it appeared after the surrender of Germany and Japan that the only important unfulfilled objective of the Foreign Funds Control was the uncovering of hidden enemy-owned property in the United States, the Treasury Department embarked upon a so-called defrosting program having as its ultimate objective the unfreezing of all blocked property in which there has been no enemy interest. On the assumption that it would be administratively impossible for this Government to pass upon the true ownership of property in the United States held for account of persons in foreign countries, the Treasury Department decided to negotiate so-called certification agreements with various blocked countries. These certification agreements, 14 of which have now been concluded, provide that each foreign country which is a party to the agreement will investigate the ownership of all property in the United States held by or through such country in order to determine the true ownership thereof and (a) to identify and segregate all such property which is found to be owned by Germany or Japan or (b) certify that there is no enemy interest in the property, whereupon the property is automatically freed from our freezing controls.

It has now become clear that a substantial portion of blocked property will remain frozen for an indefinite period because the owners thereof are unwilling to apply to their respective governments for a certification of dollar assets which they are hiding from such governments. Most European countries are now engaged in attempts to mobilize the dollar assets of their nationals in order to obtain much needed dollar exchange for postwar rehabilitation. In many cases the local currency which would be given to the owner of such dollar assets would be based on an exchange rate which, in the light of free market quotations, is considered confiscatory. In many cases the owners have failed to declare and pay taxes on the income from their dollar assets. The penalties for failure to declare foreign exchange assets and the income thereon are unusually severe, often involving criminal penalties and fines which in some cases are as high as 60 per cent of the principal amount involved.

The Treasury Department is under considerable pressure to liquidate Foreign Funds Control and I believe the Treasury sincerely desires to effect this liquidation promptly. It cannot do so, however, until it has disposed of the problem of uncertified assets. After considerable discussion within its own organization, the Treasury Department has now decided, with the consent of Secretary Snyder, to adopt either one of two alternative means of disposing of the uncertified assets. The first alternative, which appears to be favored by the Treasury, is to have the Office of Alien Property of the Department of Justice vest all uncertified property on the basis of a general finding that such property is presumably enemy-owned. This vesting would not take place until a reasonable period after public announcement of the Justice Department's intention so as to afford the nominal owners an interim period in which they may make peace with their own government and obtain a certification. The second alternative proposal would involve a public announcement

cc: Schmidt, Friedman, Arnold, Mains, M.Schwartz, Williams, Nelson, Glaser, and Gewirtz

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April 11, 1947.

that as of a specified date in the future, a new census will be taken of all uncertified blocked property and that the results of such census would be reported to the respective governments to enable them to take appropriate action with respect to the nominal owners thereof.

In my opinion, both programs boil down to the same thing, namely, confiscation of property which had been sent to this country for safekeeping. Advocates of the Treasury's program argue that (1) this country should lend every assistance to friendly foreign countries in mobilizing their dollar assets since the more of such assets that can be obtained from their own citizens, the smaller will be the drain upon United States taxpayers in the form of dollar loans to such countries, (2) the Treasury Department, being the tax collection agency of this Government, should not, as a matter of principle, take positive action to enable foreign nationals to evade their tax liabilities to their own governments and (3) that the only other alternative would be the straight unblocking of all foreign property which is not known to be enemy-owned and that this third alternative is unthinkable since it would involve a breach of faith with the foreign countries which had adopted certification programs under pressure from the Treasury Department and would involve the straight release of a substantial amount of enemy assets which are now cloaked through foreign countries.

With the third point above I am in disagreement. There is no evidence whatsoever that there remains any substantial amount of uncovered enemy assets. The United States Government, in cooperation with the British Government and to some extent also with the French Government, has spent untold sums and energy, throughout the war and since, in connection with their so-called "safe haven" program which expected to uncover allegedly fabulous amounts of hidden German assets throughout the world. During the war swarms of Government investigators combed the neutral countries for evidence of enemy cloaking and since the conclusion of the war this effort has been coordinated with vast investigations within Germany. I have seen no estimate of the amount of enemy funds uncloaked through this prodigious effort but I suspect that the reason that the figure has not been published is that results have been negligible in contrast to the vast sums which the chest beaters had promised to uncover. I believe that Germany had no great amount of foreign exchange assets. Those which the Government had had under its control were long since exhausted in obtaining vitally needed war materials and I doubt that any large number of German individuals or corporations succeeded in escaping the dragnet of Germany's exchange control which has been characterized as the most ruthlessly efficient ever developed. I have observed that those who denounce the French and Swiss for hiding their foreign exchange assets from their governments are the staunchest defenders of the Jews who succeeded in evading the German prewar exchange control.

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April 11, 1947.

Under current instructions from the Treasury Department, which are based upon its policy determination that it is administratively impossible to consider individual unblocking applications, we are peremptorily refusing to consider individual applications for unblocking even when accompanied by undisputable proof of ownership and of non-enemy taint. If the Treasury Department adheres to this policy and as it becomes apparent that uncertified property will be confiscated, the owners thereof will be under pressure to resort to every sort of subterfuge to obtain release of their property, we shall have to be on the watch for forged licenses, high pressure lawyers and politicians, false statements, etc. We may even have to place a special watch on our trusted employees to protect them from offers of bribes. There are already widespread rumors that persons in Switzerland are offering to obtain release of blocked funds for a fee of 25% of their value, and that owners of blocked funds are offering to sell them for a fraction of their value.

It cannot be denied that the passing upon a vast number of individual applications for unblocking would present serious administrative difficulties, particularly in view of the drastic reductions in our staff during the past year here at the Federal Reserve Bank of New York and at the Foreign Funds Control Division of the Treasury Department. In my opinion, however, the problem is still not administratively impossible since the volume of applications with which we would be faced can be materially reduced by such methods as unblocking on a blanket basis all accounts of less than some stipulated value such as $10,000. While I do not have any substantiating data, I would guess that such a blanket unblocking would eliminate 75 or 80 per cent of the potential volume of applications for unblocking. Secondly, I have long advocated that the Treasury Department unblock all trusts, estates and accounts where the blocking results solely from the fact that a national of a blocked country other than Germany or Japan has inherited property from a person who died in the United States. It seems to me that any property blocked solely for that reason can be presumed to be non-enemy owned. Thereafter, if it should be announced that we are now prepared to consider unblocking applications on their merit, provided they are accompanied by undisputable evidence of ownership, we may be temporarily swamped with applications which would form a backlog of work which would take a long time to clean up. It might involve recruitment on a temporary basis of Foreign Funds Control personnel transferred to other departments of the bank but at least we would be working toward a successful winding up of the Foreign Funds function. When this backlog of applications has finally been eliminated, there would then remain those cases where adequate proof was not furnished and other cases where applications had not been made at all. We would then have, however, a fairly clear basis for vesting this residue of property on the presumption that it is enemy-owned.

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April 11, 1947.

The Treasury's position on these questions seems to be founded on the hypothesis that foreign governments can better investigate the true ownership of dollar assets held by or for account of their nationals. True ownership is generally established on the basis of documentary evidence supplied by reputable banking institutions. It is, of course, true that this government cannot prosecute a foreign bank for false statements. However, even foreign banks are jealous of their reputations. Nor is there any reason to believe that foreign governments will check the veracity or authenticity of evidence supplied in support of applications for certification. Overzealousness in checking applications can cause only increased operating expense and may result in uncovering hidden enemy ownership. It seems clear that this Government has the greater incentive to be cautious in passing upon unblocking applications.

The French Government has repeatedly requested the United States Government for information derived from the TFR-300 census with regard to all property in the United States held for French account. This information was requested in connection with the French program of immobilizing all such dollar assets. When Mr. Robert F. Loree learned that the Treasury Department was giving consideration to the French request, he protested vigorously on the ground that the supplying of such information would constitute a breach of the Treasury's promise to the financial community that the TFR-300 census information would be kept strictly confidential and would not be divulged outside of the agencies of the Government which were directly involved. Approximately a year ago, Mr. Orvis Schmidt, Director of Foreign Funds Control, made a commitment, after obtaining clearance from Secretary Vinson, that the information would not be divulged to the French or any other government without first affording the financial community a full opportunity to express their views. This commitment was, in fact, based upon a decision with the Treasury Department that the TFR-300 information should not be divulged to foreign governments, but at the same time it was decided that it might ultimately be desirable to inform various foreign governments with respect to property held in this country for account of their nationals, in which event a new census would be taken for the avowed purpose of turning over the results thereof to the appropriate foreign government. In view of the commitment which Mr. Schmidt gave to Mr. Loree, the Treasury Department has now decided shortly to consult the Loree (now Atkin) and Aldrich Committees regarding the Treasury's intention to adopt one of the two alternative programs mentioned above, namely, the vesting of uncertified property and the taking of a new census of uncertified assets, with the results to be reported to foreign governments. The Treasury will, of course, attempt to present the matter as a shot-gun proposition on the grounds that whether they like it or not there is no satisfactory alternative. Not only do I believe there is another and better alternative; it would seem unconscionable to carry through either of the Treasury's proposals unless the foreign government involved has agreed to grant amnesty with respect to penalties and a fair rate of exchange for assets converted into local currency as an inducement to owners of dollar assets to request certification.

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100379

December 31, 1946

TO : Mr. Donald Sham, Secretary,
Office of Alien Property,
Department of Justice.

FROM: John S. Richards,
Deputy Director,
Foreign Funds Control.

There are attached hereto a copy of a letter dated November 27, 1946, addressed to the Secretary of the Treasury by Mr. A. B. Levy and a copy of our reply thereto. Since the matters raised by Mr. Levy appear to fall within the purview of your office, it is requested that you prepare such further reply as may be appropriate.

In this connection you may wish to include a statement along the following lines:

> " The Secretary of the Treasury has informed this office that with respect to the unvested property of Hungarian Jews presently blocked pursuant to E.O. 8389, as amended, the Treasury Department will give sympathetic consideration to specific applications by such persons for the release of their property from the freezing regulations. Such applications should be filed in duplicate with the Federal Reserve Bank of New York on Treasury Form TFE-1."

(Signed) John S. Richards

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COPY

A. B. LEVY,

Dr. Jur (Budapest),
C.L.S. (Cambridge),
L.L.M. (Bristol).

4, Dukes Lodge
80, Holland Park,
Tel. Park 8213 W. 11.

27th November 1946

Sir,

I am chairman of the Kadimah Society, an organization created under the War Charities Act 1940 for the relief and rehabilitation of Hungarian Jewry.

In this my capacity I am concerned with the release of the assets of Hungarian Jews by the Allied Powers.

I learned with great satisfaction that Congress inserted into Public Law 671 - 79th Congress 2nd Session Ch. 878 a provision under which return of seized assets may be made to individuals who suffered discrimination as members of political, racial or religious groups in the time between 7th December 1941 and the abrogation of the discriminating legislation.

Hungarian Jews were already before 7th December 1941 the victims of discrimination, they enjoyed at no time between that day and 20th January 1945 full rights of citizenship. Furthermore discrimination - heavy as it was - deteriorated into persecution of the worst kind and resulted finally in the extermination of their great majority.

Those who survived lost all or most of their property, many of them have no other assets left than those seized by the Allied Governments as enemy property and the same is the case with respect to the next of kin of those who were murdered or perished otherwise.

An early return of these assets is therefore of utmost importance.

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I feel it to be my duty to ascertain in which way the said Act of Congress will operate, especially when and to whom applications for release may be submitted, what evidence is to be produced, and if return be granted, how the persons concerned could use the assets or dispose of them.

I should be most grateful if you would kindly inform me of these and all other essential details, or forward this my request to the competent authority.

Yours most respectfully

(Signed) A. B. Levy

To the Secretary of the Treasury
Washington D. C. U.S.A.

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100379

December 31, 1946

TO : Mr. Donald Sham, Secretary,
Office of Alien Property,
Department of Justice.

FROM: John S. Richards,
Deputy Director,
Foreign Funds Control.

There are attached hereto a copy of a letter dated November 27, 1946, addressed to the Secretary of the Treasury by Mr. A. B. Levy and a copy of our reply thereto. Since the matters raised by Mr. Levy appear to fall within the purview of your office, it is requested that you prepare such further reply as may be appropriate.

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(Signed) John S. Richards

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By SR NARA Date 6-12-99

RG 56
Entry 69A4707
File GERMANY: LOOTED PROPERTY
Box 82

(from Laura)

Germ - Lit Property

For Immediate Release:
THURSDAY, OCTOBER 4, 1951

DEPARTMENT OF JUSTICE

Attorney General J. Howard McGrath announced today that in accordance with the program made public on January 19, 1951 the Department of Justice has vested approximately $3,000,000 of securities of United States issue reported to have been looted by the Germans during the occupation of the Netherlands. These securities are included in the list of "domestic scheduled securities" appended to General Ruling No. 5B and have not been deposited with the Federal Reserve Bank of New York in accordance with the provisions of that Ruling. As a result of this action, the United States Government has taken title to the vested securities and the rights of the holders of such securities have been nullified.

Demand letters — Presently 1 mil of this 3 mil

Harold I. Baynton, Assistant Attorney General, Director, Office of Alien Property, Department of Justice, stated that the program made public on January 19, 1951 was designed to enable the completion of this Government's efforts to assist in the recovery of securities looted by the Germans during the war. The policy of restoring enemy looted securities was expressed in the Inter-Allied Declaration Regarding Forced Transfers in Enemy-Controlled Territory, of January 5, 1943, and in Resolution No. VI of the United Nations Monetary and Financial Conference held at Bretton Woods July 1 to 22, 1944, in both of which the United States joined.

Mr. Baynton pointed out that the vesting action, which applies to the securities looted from The Netherlands, covers most of the securities on the list of domestic scheduled securities and that the remaining domestic scheduled securities which have not been deposited with the Federal Reserve Bank of New York and which were reported by other foreign nationals as having been looted by the Germans will soon be vested.

According to Mr. Baynton, it is expected that The Netherlands Government, acting on behalf of its nationals who were victims of the German looting, will file claims for the return of the vested securities in accordance with the provisions of Section 32 of the Trading with the Enemy Act, as amended. Any other person who claims to have any in the vested securities may also file a claim for the return of his interest. Under Section 33 of the Trading with the Enemy Act, as amended, Mr. Baynton said, claims for such return must be filed within two years of the vesting. Forms for filing claims for return may be obtained by writing the Department of Justice, Office of Alien Property, Washington 25, D. C.

The Vesting Orders covering the securities looted in The Netherlands are numbered 18520 and 18521. They were effective on October 2, 1951 and published in the Federal Register of October 3, 1951. Copies may be obtained upon request at the Office of Alien Property, Department of Justice, Washington 25, D. C .

GPO-83-18580

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Germ: Looted Property

SECRET

Paraphrase of a secret cable from the Department. Personal for Pauley from the Secretary. Dated August 18, 1945 (6974)

Sent to Berlin, repeated to London for Clayton as 6974 and to Paris as 3879.

I have consulted the President, the Secretary of the Treasury and others in regard to the recommendation conteined in your telegram of August 5 (from Berlin via WAR) that the U.S. retain a lien on gold looted by Germany from occupied countries in Europe until past and prospective claims of the U.S. against such countries are settled. I have also noted that your telegram of August 13 (No. 2881 from Moscow) renews this recommendation on looted gold in somewhat different form and includs a recommendation for imposing similar conditions on the restituition of looted securities.

We have given the problem much thought and careful study in the light of the following factors:

(a) The U.S. has no moral ar legal basis for laying claim to or attaching this of any other gold belonging to foreign countries in settlement of past or prospective debts:

(b) The U.S. is bound by its adherences, given without reservation, to the United Nations Declaration with respect to Axis acts of dispossession of January 5, 1943; the Gold Declaration of February 22, 1944; Bretton Woods Resolution VI; and resolution 6 of the Conference on Problems of War and Peace held at Mexico City. In these declarations, which were sponsored by the United States and to which the U.S. invited the signatures of other nations, the U.S. is solemnly pledged to support the restitution of looted property;

(c) An attempt by the U.S. to lay claim to gold belonging to countries which it maintains friendly relations would seriously prejudice those relations, Particularly is this the case since the U.S. now owns the greater share of the world stock of monetary gold.

The position of the U.S., which you should express in your dealings with your colleagues on the Allied Commission on Reparations, is that gold captured by U.S. forces, as well as gold captured by other Allied forces, should in principle be restored to the countries from which it was looted without reservation, condition, or encumbrance. This government recognizes however, that German disposition of some looted gold, and the impossibility of identifying the origin of other gold requires for the sake of equity a modification of the simple principle of identifiable looted objects to the jurisdiction from which they were removed by Germany. The necessity for such modification and the content of paragraph 10 of the Reparations Section of The Berlin Protocol have resulted in the advocacy by the U.S. of the policy of pooling all gold found in Germany and Austria by Allied Troops (British, American, French and Soviet) into a common pot. This gold would then be devided among countries which can establish a fact of German looting of gold from their jurisdiction, other than USSR, in proportion to their established losses.

This Government is similarly committed to a policy of restitution of securities looted by Germany from occupied countries of Europe, without reservation, condition or encumbrance. To the extent that the jurisdiction from which some securities have been removed cannot be established, an equitable principle of distribution must be devised among the UK, USSR, US and France to achieve rough justice in dividing these securities among the countries from which they were looted.

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This Government is anxious that steps should be taken at the earliest possible date to restore gold and securities, as well as other types of property, to the countries from which they were removed by Germany. I would appreciate learning from you whether you consider it likely that negotiations with your colleagues on the Allied Commission on Reparations are likely to lean to early agreement on principles and procedure. If so, you are authorized to propose to your colleagues a formulation of the gold-pot policy and of the principle of restitution of securities described above. The Department is considering certain aspects of the gold-pot policy in which agreement would have to be reached:

(1) The scope of the treasure to be included in the pot, e.g. whether SS accumulations of precious metals from concentration camps, monetary silver, et cetera should be lumped with monetary gold;

(2) The eligibility of Austria, Italy and the satellites as claimants on the gold pot, and whether their treatment should be identical with that of liberated countries;

(3) How looted which Germany illegally sold during the course of the war should be recovered and whether recoveries of such gold should be added to the pot. If you consider that the Reparations Commission can usefully attempt to deal with this problem, the Department will communicate it's views on these points to you.

I am well aware of the difficulties confronting you, however, and if in view of the Soviet position reported in your No. 2881 you do not believe that the Reparations Commission will be able to dispose of the question of restitution of gold and securities, please let me know so that we may examine the possibility of settling these matters through other channels of negotiation with the occupying powers, or by unilateral settlement for the U.S. zone of occupation.

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THE SECRETARY OF THE TREASURY
WASHINGTON

Dear Mr. Burgess:

This is with reference to our meeting on Wednesday, October 8, 1947, with respect to our proposed plan for terminating Foreign Funds Control.

The views which you and your colleagues expressed at the meeting have been discussed with Mr. Lovett and Mr. Clark. We have come to the conclusion that there is no satisfactory alternative but to proceed immediately with the execution of the original plan in order to carry out our commitments to Congress that Foreign Funds Control will be substantially liquidated by the end of the fiscal year in a manner which will prevent the escape of concealed enemy assets.

Please be assured of my appreciation of your interest in this matter and your efforts to assist us in meeting this problem. I am sending a letter along similar lines to Mr. Atkin and Mr. Haskell.

Sincerely yours,

Secretary of the Treasury

Mr. W. Randolph Burgess
Vice Chairman of the Board
National City Bank
55 Wall Street
New York 15, New York

Approved:

Tom C. Clark, Attorney General

Robert A. Lovett, Acting Secretary of State

JSRichards:ltm 10/13/47

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Authority NND968103
By NARA Date 2/6/09

RG 131
Entry FFC Subj
File Defrosting #1
Box 95

Dear Mr. Burgess:

This is with reference to our meeting on Wednesday, October 8, 1947, with respect to our proposed plan for terminating Foreign Funds Control.

The views which you and your colleagues expressed at the meeting have been discussed with Mr. Lovett and Mr. Clark. We have come to the conclusion that there is no satisfactory alternative but to proceed immediately with the execution of the original plan in order to carry out our commitments to Congress that Foreign Funds Control will be substantially liquidated by the end of the fiscal year in a manner which will prevent the escape of concealed enemy assets.

I should like to assure you that, before reaching the above conclusion, I gave the fullest possible weight to the considerations which you presented so ably, and again reviewed the whole policy with my staff with the greatest care. I am aware that an incidental result of the step which we propose to take may be to force citizens of various European countries to reveal their dollar assets to their governments. I also realize that this effect, ~~which is incidental to our main objective~~, may be regarded by some people here and abroad as our actual objective, particularly since this Government is, at the present moment, under very heavy pressure from all sides to take energetic steps to facilitate the efforts which are being made by European countries to increase the dollar reserves which they so urgently need. However, I am sure you will agree with me that the manner in which our defrosting problems have to date been handled demonstrates that our actual objective is and has been to discover concealed enemy assets. The plan outlined in the proposed press release is the final step in this direction.

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I appreciate very much the interest you have shown in this matter. I am sending a letter along similar lines to Mr. Atkin and Mr. Haskell.

Sincerely yours,

Secretary of the Treasury

Mr. W. Randolph Burgess
Vice Chairman of the Board
National City Bank
55 Wall Street
New York 15, New York

Approved:

Tom C. Clark, Attorney General

Robert A. Lovett, Acting Secretary of State

JSRichards:gb 10/15/47

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(COPY)

October 8, 1947

MEMORANDUM FOR THE FILES

Re: Meeting with representatives of the New York financial community concerning termination of Foreign Funds Control

PRESENT: 1) For the financial community: Messrs. Randolph Burgess, Vice Chairman, National City Bank of New York; I.C.R. Atkin, Chairman, Foreign Exchange Committee and Vice President of J.P. Morgan Company, Inc.; and John Haskell, Vice President, New York Stock Exchange

2) For the Treasury Department: Secretary Snyder; Messrs. Lynch, Southard, Richards and Arnold;

3) For the State Department: Messrs. Ness and Surrey.

4) For the Department of Justice: Messrs. Bazelon, Hilken and Sham.

During August Foreign Dunds Control had presented informally to the Foreign Exchange Committee a proposed release announcing that the blocking operations of the Control would be terminated by a program under which property remaining blocked would, about April 1, 1948, be transferred to the jurisdiction of the Office of Alien Property and be subject to vesting on the presumption that it was enemy-owned. The present meeting was held in response to a request that Secretary Snyder hear objections of the financial community to the program.

After Secretary Snyder had pointed out that it would be difficult for the Department to take any other course than was contemplated, particularly because the Congress understood that Foreign Funds Control would be effectively terminated during the present fiscal year, he invited the representatives of the financial community to present their views. Mr. Atkin then stated the following objections of the Foreign Exchange Committee: (1) vesting action by the United States would constitute confiscation of private funds which would violate all precedents of the United States in the international field and might occasion reprisals or otherwise encourage confiscatory action against American property abroad; (2) it was unfair and improper for the United States to force foreign nationals who had put property here in reliance on our institutions to surrender it to their governments on terms which really amounted to confiscation in view of inequitable exchange rates prevailing in Europe; (3) the presumption of enemy ownership was not believed to be well founded in fact by the financial community; and (4) assuming that the progress was designed to aid the foreign exchange positions of the foreign governments, it would not be

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effective in time to be of any real assistance in the present emergency. As a solution, in case the Department was not willing itself to receive applications for the unblocking, Mr. Atkin proposed that the blocking, with the existing certification procedures, should merely be continued until it could be ascertained more definitely what would be a fair and equitable method of termination.

In discussions following this presentation, Messrs. Burgess and Atkin indicated that their objections would be much less strong if no action were taken until the exchange rates of Europe were straightened out, as Mr. Burgess presumed they would be at an early date under the Marshall Plan. Accordingly, they reverted strongly to the suggestion that action be merely postponed, saying that they could not regard the present appropriation status as an insuperable obstacle. They thought that perhaps the Federal Reserve Bank of New York might be induced to continue operations without charge.

Mr. Haskell then presented his views, which he stated were not officially those of the Exchange since they had not been finally cleared with Mr. Schram, the President. His objections were not essentially different from those given by Mr. Atkin except that he added the fear that mass liquidation would depress the market for securities.

After some further discussion, Mr. Atkin indicated that he would like to leave a written statement outlining the views which he had advanced. Mr. Haskell said that he would also like to present a statement in behalf of the Stock Exchange but that he hesitated to submit the one presently in his possession in view of the lack of clearance. Secretary Snyder responded that he would be happy to receive both statements, accepting Mr. Haskell's with the full understanding that it might be modified.

Secretary Snyder then concluded the meeting by saying that the views presented would be taken under consideration and that the visitors would be informed of the Department's conclusions as soon as possible.

Copies of the memoranda submitted are attached.

Elting Arnold

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The Treasury and the Attorney General propose to announce that on April 1, 1948, all foreign property in the United States then remaining blocked will be subject to the presumption that it is enemy property and that such property will then be placed under the jurisdiction of the Office of Alien Property. This of course would be a major action on the part of the United States Government. The values involved are very great and the principles involved are most significant. The reason given in support of this action is that it is essential to insure that enemy assets concealed in this country do not escape upon the termination of the war-time controls exercised by the Treasury Department.

The Foreign Exchange Committee strongly urge that this proposal be not adopted, for the following reasons: (1) that it would violate in a major way all precedents established by the United States in respect of the treatment of private alien property; (2) that it is based on a mere presumption of enemy ownership and not on facts; (3) that it would not be of any real value to the governments of the foreign countries concerned; and (4) that it is not necessary to accomplish the purpose.

The United States has never hitherto confiscated property belonging to private enemy aliens, much less property belonging to friendly aliens. In 1923 Charles Evans Hughes, then Secretary of State, said:

> "The confiscatory policy strikes not only at the interests of particular individuals, but at the foundation of international intercourse."

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In 1935 Secretary of State Cordell Hull said:

> "The confiscation of private funds by this Government would react against property interests (some very large) of American nationals in other countries. It would be an incentive to other governments to hold American private property. ... It is important ... that the United States should not depart in any way from its traditional attitude with respect to the sanctity of private property within our territory, whether such property belongs to nationals of former enemy powers or to those of friendly powers."

An action such as that proposed might open the door to the confiscation of American property abroad by local governments, and it raises the very serious question brought up by Secretary Hull in his speech in 1935. American investors are being encouraged to risk their capital in foreign countries. What would be the effect on such potential investors if their own government, for any reason, exposed them to reprisals by treating the private property of aliens in the United States as subject to confiscation? Recognition of the inviolability of private property against confiscation is the sole assurance of an adequate supply of international capital and credit, and these in turn have been the foundations of economic development in the world.

The blocking orders were adopted to protect the private property of friendly aliens from seizure by the occupying enemy powers. That purpose has been accomplished. The Treasury and the Department of Justice have had years in which to establish the identity of enemy-owned assets, and the strong probability now is that the bulk of the assets still blocked is property of allied or neutral citizens. Certainly there is little or no likelihood that there is any major amount of enemy property included.

The argument that such an action would immediately force blocked nationals to report their holdings abroad to their respective governments does not necessarily follow. The confiscatory penalties

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in the form of taxes and fines, and forced conversion at an arbitrary and inequitable rate of exchange imposed by European governments, suggests that such an action on the part of our Treasury would not stimulate a Frenchman, for instance, to report his property. It seems therefore that it would not help the European governments in meeting the present emergency. It is apparently intended that the property would not be confiscated by the Alien Property Custodian until after two years following April 1, 1948. When, if ever, it would be passed on to the respective European governments is not certain.

The United States has already made certification arrangements with the majority of European countries. This gives the United States and the foreign governments complete control of these assets until certification by a foreign government or until their national character is determined. If it is felt that control of these assets should be retained, then we suggest that we simply maintain the certification procedure, and look at the whole matter again a year or so from now. The expense of this to the Treasury should be negligible.

For these reasons, and because we believe that the proposal would ultimately embarrass the United States Government in all respects, we recommend that the present proposal be abandoned, even though we are in sympathy with the purpose of immediate relief to the American taxpayer in connection with financial aid to Europe.

October 7, 1947

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RG 131
Entry FFC Subj
File Deposition #1

September 26, 1947.

MEMORANDUM RE:

PROPOSED VESTING IN THE OFFICE OF ALIEN PROPERTY OF CASH AND SECURITIES HELD IN THE UNITED STATES FOR THE ACCOUNT OF FOREIGN NATIONALS.

I. HISTORICAL BACKGROUND

Beginning prior to the entry of the United States into World War II, the United States Government, acting under emergency executive powers, blocked the securities and cash balances held physically in this country for the account of foreign nationals residents of practically all the continental countries of Europe, including not only allied countries as they were invaded by Germany, but neutrals as well. The purpose of this action and the various regulations issued by the Foreign Funds Control of the Treasury were primarily to insure that these assets would be preserved against seizure or utilization by invading or enemy powers and thus prevent their being used by any enemy interest against the interests of the United States.

As the war progressed, several billions of dollars of cash and securities were frozen in this manner and it is generally recognized that the regulations well served their purpose and were administered efficiently to the benefit of the foreign holders and the interest of the United States.

After termination of hostilities, the United States Treasury developed an unblocking policy under which already substantial amounts of these frozen accounts have been released. Until now this policy has been based in general upon the freeing of the accounts owned by foreigners under a series of agreements with the governments of formerly blocked countries under which the blocked property of a foreign national is automatically released upon certification by the foreign government to the effect that there is no enemy interest in such blocked property. Obviously, this practice makes it necessary for a foreign national to declare his holdings to his own government or central bank to obtain the certification prerequisite to making his assets in America available to him.

Most of these formerly blocked European countries have issued various laws and decrees on frequent occasions before the war, during enemy occupation and since, requiring their nationals to report their American holdings, and in several countries, such as France, decrees have been issued requisitioning such securities and dollars. Under the latest French decree, for example, French nationals, residents of France, must turn in all their American securities at prices recently established and receive in exchange French internal bonds valued at the official rate of exchange of 120 francs to the dollar.

II. PRESENT SITUATION

The United States Treasury is now considering the advisability of issuing an order to deal with all such blocked property which is not released under the current certification process by foreign governments within a few months. Under the proposal foreign nationals would be given a few months to comply with the regulations of the foreign countries where they are resident and thus obtain the necessary certification and release of property. If they fail to do this their property would be turned over by the banks, member firms and other custodians which now hold it to the office of Alien Property of the Department of

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Justice under the presumption that it is enemy property.

Following are the reasons advanced, (a) in favor of this procedure and (b) against it:-

(a) <u>In favor of transfer to Alien Property Custodian</u>

1. There may be some enemy interest remaining in these uncertified accounts.

2. The United States should not be a haven for the capital of foreign nationals that are not complying with the internal laws and regulations of their own countries.

3. In the light of the Marshall Plan and continuing advances of dollars to European governments by our own nationals and by the United States Government, it is appropriate that the United States bring pressure on foreign nationals to surrender their dollar assets to their own governments.

4. It is out of order to continue Foreign Fund Control activities of the Treasury after the termination of hostilities and in the absence of adequate appropriations to support its continued activities.

(b) <u>Against transfer to Alien Property Custodian</u>

1. It is generally recognized that the extent of possible enemy interest in these accounts is very small, and what may be remaining should be determinable by continuation of the extensive investigations being carried on not only by governments of the formerly occupied countries but by allied investigatory agencies which have been operating in Germany and Japan. Even if such investigation were considered inadequate, the continuation of the present freezing would deprive any enemy interests from any possible benefit.

2. Over many years the United States has welcomed the investment of capital from abroad and has accepted it without any announced conditions that it would be subject to the control of foreign laws as well as the laws of this country. Much of the economic development of this country and the growth of the United States as a financial and commercial center have been based on this freedom. Traditionally, this country has freely welcomed both individuals and capital that were escaping unfavorable political and economic conditions imposed on them by the governments of their home countries. It is known that a large amount of these assets have been placed in safekeeping in this country for many years. For the United States to change the rules by action of an ex post facto nature and apply United States Govern-

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ment duress to enforcing regulations of foreign exchange and tax policies of a foreign government whose ideas of economic freedom are not the same as those of our government and our people would be harmful to the development of the United States as a center of international finance and trade. It is unlikely that other financial centers, such as those of South America, plan such action as the enforcing agents of other governments.

3. It is unlikely that the threat of vesting would make more dollars available to France and other continental governments because, notwithstanding any amnesty that might be arranged to absolve the individuals who have not already reported their holdings, from information reported from abroad it is generally believed that, in view of the confiscatory nature of general requisition terms and the widespread lack of confidence in local currencies, the majority of foreign nationals would prefer to sacrifice their entire United States holdings, rather than to report them and apply to their local governments for certification.

4. Any United States ruling that would operate to wipe out the last dollar reserves of individual foreign nationals would eliminate from these foreign economies an incentive to put their internal finances and economic affairs on a sounder basis and thus attract the return of such capital on a voluntary basis. It would hurt the very democratic capitalist elements of the Continent from which United States policies derive great support and seed corn for the future development of private trade and enterprise. On a nation-to-nation basis, it would not increase the amount of dollars available for the needs of Europe but would merely transfer ultimate control of these dollars from individual to governmental control.

5. To the limited extent that dollars were made available under such a ruling to foreign governments from their nationals through fear of total loss, the present and future political and economic situation of the continental countries of Europe cannot be ignored. In view of the recent example of the Communists' seizure of Hungary, it does not appear wise from our national interests to press for the transfer of private funds here to foreign governments which could easily become Communist dominated. In view of Europe's crisis, United States action of this nature seems dangerously premature now.

6. The expenses of foreign fund control activities could be greatly reduced, while still keeping United States control over uncertified foreign balances. However, even if appropriations are not forthcoming to continue the foreign fund activities of the Treasury, other alternatives, such as reliance on the escheat laws of states, are available in lieu of the proposed procedure.

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7. Representatives of the Office of Alien Property have indicated that if this property is vested with that Office, an orderly liquidation of all the securities held would commence at the earliest practicable date. The sale of securities totaling over 1 billion dollars, on top of the present foreign liquidation already under way, or even the existence of such blocks overhanging the market would be detrimental to restoring a firm United States securities market urgently needed for the pent-up financing of American industry.

8. In view of the general recognition that the great bulk of the funds involve no "enemy interest," it appears inappropriate to use emergency war powers and the presumption of enemy interest as the United States tool as the lever to force foreign nationals to surrender their dollar assets to their own governments.

III. CONCLUSION

Evaluating the above considerations from both the point of view of the business of the American financial community and the national interests of the United States, it is recommended that the United States Treasury not issue the proposed Order, but, on the other hand, continue the present policy of keeping the uncertified funds of foreign friendly nationals blocked in this country under the Treasury procedure provided by executive Order.

John Haskell

John Haskell.

JH:hm

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111

Secretary Snyder

Frank S. Southard, Jr.

Termination of Blocking Controls Exercised by Foreign Funds Control

As you know representatives of the New York financial community, including Mr. Emil Schram, President of the Stock Exchange, and Mr. Randolph Burgess, Vice Chairman of the Board, National City Bank, have requested an opportunity to discuss with you their opposition to the Treasury program for terminating the freezing controls. Under this program with which you agreed and which was supported by the Departments of State and Justice it was contemplated, you will recall, that the remaining uncertified blocked accounts after press notice to the public would be transferred to the jurisdiction of the Office of Alien Property within the Department of Justice and subject to vesting.

Action under the program must be taken by the Treasury as soon as possible in order to permit the liquidation of Foreign Funds Control during this fiscal year. It will take at least a month after a definite decision has been reached on the program to put it into operation since we will have to consult the foreign governments concerned before proceeding. Accordingly it is recommended that you set a time at your earliest convenience for a conference with interested members of the financial community. You may also desire to have present at this meeting representatives of the State and Justice Departments.

In connection with the proposed conference the following information may be useful:

A. Re Certification Program

1. Size of remaining problem. Assets of residents of 26 foreign countries are still blocked under Foreign Funds Control. Arrangements have been completed with 15 of these countries, including France,

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Switzerland, The Netherlands, Belgium, Italy, and Sweden, whereby the assets are unblocked when the foreign government of the country concerned certifies the absence of enemy interest in the assets. Assets of these countries still remaining to be certified approximate one billion dollars. Assets of the remaining 11 countries approximating one-half billion dollars are not covered by the certification procedure, either being subject to vesting or their disposition being a question of State Department policy.

2. Rationale of certification procedure. Certification agreements with the foreign countries providing for the unblocking of the funds of their nationals placed on those governments the responsibility for investigating the ownership of property involved. This government cannot make the necessary investigations in sovereign foreign countries to ascertain the true facts concerning the ownership of property held here.

3. Incidental effect of certification procedure. Many of these countries are making strenuous efforts to mobilize or control the private dollar holdings of their nationals in order to provide them with essential dollar purchasing power. Under the certification procedure the foreign governments incidentally are able to learn of the existence of dollar assets belonging to their nationals and to control their use. As you are aware, there is considerable feeling in this country that the foreign governments concerned ought to do more to use their own dollar assets, including those privately owned, in order to reduce the amount of assistance from the United States. It is interesting to note that Mr. Burgess has been vociferous on this point in criticism of the Marshall Plan.

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4. Private foreign reaction to certification procedure. To date the foreign nationals in whose name the property is held is in no way compelled under the certification procedure to obtain the necessary certification. With the hope that an eventual relaxation in the Treasury regulations will permit them to obtain the release of their assets without disclosure to their governments many foreign nationals have chosen not to request certification which might subject their assets to mobilization by their governments or to severe taxxxxx penalties.

B. Re Plan for terminating freezing controls. xxxxxxxxxxxxxxxxxxxxxx

1. Outline of Plan. A press release is to be issued (a copy of proposed press release is attached) within the near future announcing that after a certain period all remaining uncertified assets in blocked accounts will be transferred to the Office of Alien Property within the Department of Justice. All of these assets would be subject to vesting by the Office of Alien Property. Facts supporting claims for the return or release of the property would be checked by the Office of Alien Property with the respective foreign governmenas.

2. Effect of plan on foreign nationals. Under this plan the foreign national has two alternatives: (a) to secure immediate certification from his government, or, (b) to allow his funds to be transferred to the Office of Alien Property subject to return on a showing that the property is not held for an enemy. These facts would be checked with the foreign governments. Under either alternative, the existence of dollar assets of the foreign national would be revealed to his government.

3. Plan indirectly approved by Congress. It can be said that the plan as outlined above was indirectly approved by Congress. The appropriation

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granted to Foreign Funds Control to complete its liquidation during 1948 was based on a statement to the House Appropriations Committee which included a description of the above plan to permit Foreign Funds Control to complete its operations during this fiscal year.

4. Plan approved by Federal Reserve Bank of New York. Certain top officials of the Federal Reserve Bank of New York recently discussed this plan in the light of the financial community opposition. It was their view that Treasury had no alternative but to proceed with the program. These officials, of course, have not yet had an opportunity to discuss their views with Mr. Sproul.

C. Financial Community Arguments vs Plan.

1. Destroy confidence in private financial U.S. institutions. Foreign nationals placed their assets in the U.S. in reliance on the private financial institutions of this country. The freezing controls were imposed solely for the purpose of protecting those assets from the enemy. Accordingly, while they agree that the assets should not be unblocked until we are reasonably certain that no enemy interest is involved they urge that the controls should not be used in a manner which would place their foreign customers in jeopardy with their own governments.

2. Severe penalty provisions of foreign governments. It is argued that the penalties being exacted by the foreign governments for failure of their nationals to declare foreign assets are unduly severe. To this end, we are making every effort to obtain some relief for the foreign nationals from the penalties imposed by their governments, although we cannot guarantee that the results will be wholly satisfactory.

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3. Unsatisfactory exchange rates for customers. It is argued that the excahnge rates at which the dollars are being mobilized overvalue the various local currencies with the result that the foreign national does not receive an equivalent value for his dollar assets. The exchange rate problem is, of course, complicated and difficult to adjust. However, the foreign nationals adversely affected might be able to obtain some form of exchange rate guarantee from their own government to protect them against later devaluation.

In conclusion, it should be pointed out that Mr. Lynch and I feel that we have no alternative but to proceed promptly with this plan despite the opposition from the financial community. Current discussions with the Departments of State and Justice indicate that they agree with us.

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(C O P Y)

FOREIGN EXCHANGE COMMITTEE
23 Wall Street
New York 8, New York

September 10, 1947

Mr. John S. Richards, Director
Foreign Funds Control
Treasury Department
Washington, D. C.

Dear Mr. Richards:

In connection with the draft of the proposed press release regarding blocked assets which you outlined to the Foreign Exchange Committee some days ago, as agreed I called together the presidents of a number of large banks and submitted to them the proposal. I give you below their reaction.

The unanimous opinion was that this step would be a most unfortunate one to take at the present time. With the situation that exists in the world today, and especially in Europe, it would have the effect of shaking confidence generally, and more specifically would shake confidence in American financial procedure. Historically the United States has been meticulous in its attitude toward private property; the usual policy has been to avoid confiscation even of enemy property in wartime, and we know of no case in which the present proposal has been adopted in this country. To take a step so widely at variance with the established policy, or to take any step that might be construed as at variance with this policy, might have unfortunate repercussions that at the moment could not be foreseen. They therefore urge the Foreign Funds Control not to take the step contemplated in the proposed press release.

It was felt generally that it would be far better to have the blocking arrangements that are in effect today continued for the present, which would still leave this foreign property in control of the Treasury and of the foreign governments, through the certification procedure.

These views were expressed quite independently of the situation in which it was felt that American banks might be placed in litigation by their customers, either here or abroad, seeking to test the validity of the proposed seizure.

While the matter naturally was not discussed with counsel, the view was expressed that American banks might find it necessary for their own protection to test the validity of the measure in the courts in this country.

Yours very truly,

(Signed) I.C.R. Atkin

Chairman

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AUG 12 1947

To: Mr. R. R. Tompkins, Chief
Foreign Funds Control Department
Federal Reserve Bank of New York

From: Paul Gewirtz, Chief
Compliance Section

Reference is made to our memorandum of May 29, 1947 which listed 11 names submitted by the U. S. Treasury Representative to the Swiss Compensation Office with a request that certifications should not be issued for assets held by such persons in the United States until all doubts concerning the non-enemy ownership of these assets have been resolved.

We are attaching hereto further lists of persons, by country, whose assets are not to be certified for the time being either because of specific requests made by the Treasury Department or because of information available to their respective governments.

It would be appreciated if you would arrange to have all applications involving assets of the persons listed referred to me.

In undertaking this procedure we are thinking particularly of cases involving persons on the aforementioned lists who may obtain immigration visas to the United States and who, upon arrival in this country, may file applications for the release of their assets.

Attachments

/s/ Paul Gewirtz

Letter Mailed with Attachments
/s/ Paul Gewirtz
cc: Volkman

NVolkman:iej
8/5/47

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NATIONALS OF AUSTRIA

NAMES AND ADDRESSES

Friedman, Alex
Vienna, Austria

Hansgirg, F. J. (Dr.)
Address unknown

Korn, Thomas (Deceased)
Address unknown

Rothschild, Alphonse Mayer (Decd.)
Address unknown

NATIONALS OF BELGIUM

NAMES AND ADDRESSES

Andreef, Joseph
Address unknown

European Naval Stores Co. S.A.
Antwerp, Belgium

Heineberg, Willy
Address unknown

Vaes, Paul Emile
Brussels, Belgium

NATIONALS OF CZECHOSLOVAKIA

NAMES AND ADDRESSES

Bohemia,
Stara Role

Wallenfells and Co.
Usti n. Labem

United Czech and Moravian Cotton Textile Mills
Usti n. Orl.

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NATIONALS OF DENMARK

NAMES AND ADDRESSES

Blixen, Tania (Baroness)
Rungstedlund, Rugsted Kyst, Denmark

Held by Kjbenhavns Handelsbank, Copenhagen, in blocked accounts in U.S.A. with Guaranty Trust Company of New York for the below-mentioned persons, firms etc.

Nrand Boudaghian, Alsterdam 8, Hamburg

Fischer & Korioth, Munckebergstrasse 13, Hamburg

Albrecht Neuss, Germany

Estate of Frits Jay, Klosterheide, Germany

Rudolf Kellermann, Germany

Grafin Charlotte zur Lippe, Berlin

Helga Luithlen und minderjariger Kurt Weber mit Alleinverfugungsrecht fur Herrn Dr. Theodor Bernhard, Wien, bis auf gerichtlichen Widerruf

Fr. Lorensen, Apenraderstrasse 33, Flensburg

Pester Ungarische Commercial-Bank, Budapest

H. Eugen Vamos, Nagyvarad, Hungaria

Banca de Scont & Romaniei, Cernauti

Held by Den Danske Landmandsbank, Copenhagen, in blocked account in U.S.A. with National City Bank for the below-mentioned persons, firms, etc.

Eisen-Union A/G, Neue Ansbacherstrasse 7, Berlin

Emil Gutfreund, Piata Plevnei 6, Timoseara, Romania

Sigfrid Schultz, The Chicago Tribune Berlin Bureau, Hotel Esplanade, Berlin

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NATIONALS OF DENMARK (continued)

NAMES AND ADDRESSES

B. H. Voigt, Westfalische Strasse 65 v.11, Berlin-Halensee

Pester Ungarische Commercial Bank, Budapest

Emeric Spitzer, Boulevard 37, Timoscara, Romania

Held by Privatbanken i Kjobenhavn, Copenhagen, in blocked account in U.S.A. with Guaranty Trust Company of New York for

Nagyvaradi Takarekpeustar, Nagyvarad, Hungaria

Eugen Vamos, Hungaria

and with the National City Bank of New York for

"Flora", Post. I. Batner, Fiu, Bukarest

"Nye Danske af 1864", Copenhagen, for account of:
Berlinische Feuer-Versicherungs-Anstalt, Berlin

Held by D.B. Adler & Co., Copenhagen, in blocked account in U.S.A. for

Exportkreditbank, Berlin
With New York Trust Co. 1.889,90
With National City Bank 16010,10
Hahns Enke, Copenhagen,
held with National City Bank 4500

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NATIONALS OF FRANCE

NAMES AND ADDRESSES

Abed, His Excellency Meimed Aly Bey
Paris, France

Anglo Contental Trust Co., LTD.
Paris, France

Chocolat, Menier
Paris, France

Darthiailh, Jean K.
Point Du Centre Vancresson
S Et O'France

Favre, Pierre Andre
Grosne, France

Societe Financiere D'Exploitations, Industrielles
Paris, France

Banque D'Interets Prives, S.A.
Paris, France

Lewis, Norman
Address unknown

Menier, Antoine
Paris, France

Menier, Claude
Paris, France

Menier, Hubert
Paris, France

Menier, Jacques
Paris, France

Menier, Jean
Paris, France

Banque Nationale Pour Le Commerce et L'Industrie
Monte Carlo, Monaco

Societe De Produits Chimiques Des Torres Raros
Paris, France

Payman, Syndicate, Ltd.
Paris, France

Triangle Holding Co.
Monte Carlo, Monaco

Adelaide Vermeulen
Monte Carlo, Monaco

Estate of Stanislas Kaftal

Union des Combustibles
25-27 Rue d'Astorg
Paris

Banque Franco-Japonaise
33 Rue Cambon
Paris

Banque Francaise et Italienne
Pour l'Amerique de Sud

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NATIONALS OF GREECE

NAMES AND ADDRESSES

Rethymis & Kulukundis (Hellas) S.A.
Address unknown

NATIONALS OF ITALY

NAMES AND ADDRESSES

Ferigo, Joseph
Naples, Italy

General Insurance Co., Ltd. of
Trieste and Venice, Italy
Address unknown

Messrs. Antonio Giorgi and Co.
Address unknown

De Mario, Rolando Valapertas
Milan, Italy

Schipa, Tito
Address unknown

Whitaker, Mesdames Delia and Tina
Address unknown

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NATIONALS OF LUXEMBOURG

NAMES AND ADDRESSES

Accounts with: Banque Internationale a Luxembourg

Jacobs, Moritz et Joseph
12-17 Spitzmuhle, Trier
presumed to be within the U.S.A.

Fayder, Helene
Schloss Roth-Neuerburg, Kreis-Bitburg
resident in Germany, Luxbg. nationality

Schuh, Dr. Hannig
(Germany)

Crusius, Leonie
Bd. de la Petrusse
Luxembourg
(German nationality)

Levy, Moise
deported by Germans

Ratjen'sche, Gustav Dr.
Nachlassverwaltung
Berlin W.8

Accounts with: Banque Generale du Luxembourg

Deutsche Bank
Berlin

Exportkreditbank
Berlin

Franke, Wilhelm
ci-devant a Esch/Als.
(act. sans domicile connu)

Nafziger, Peter
ci-devant a Kleesbruck
(Diekirch act. a Heffingen

Accounts with: Banque Commerciale a Luxembourg

Lambda, S.A. Luxembourg
33 Bd. Royal

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NATIONALS OF LUXEMBOURG (continued)

NAMES AND ADDRESSES

Napthta, S. A.
33 Bd. Royal
Luxembourg

Societe Financiere Coloniale S.A.

Standard Trust S.A.
Luxembourg

Arns, W. P.
8 Hindenburgerstr.
Romscheid

De Roche
(Sobernheim)
Pferdafeld

Deutsche Golddiskonbank
Berlin

Dubuse
Coblenzerstr.
Beppard a/Rh.

von Flotow, Hans
Berlin W. 8
36 Markgrafenstrasse

Kaul
Blumenthalstr. 24
Koeln

heirs of Klincke, Agnes
Berlin

Knotske, Otto & wife Anna
Berlin, N.W.
3, Turmstrasse

Leising, Hermann
Berlin 63
c/o Deutsche Kredit & Handelsgesellschaft, Jagerstr.

Leising, H. & Karl von Clemm

Mettel, F. Anton
Minden
103 Marienstr.

Bank E.J. Meyer
Berlin W.8
Jagerstr.

Ortenbach, Fritz & wife Sophie
Heidelberg
Hotel Reichshof

Ott, Dr. Max
Winsen
(Aller, 3 Bahnhofstr.)

Plage, Oskar
Berlin

Rischelmann, Gotha
Emminghausstr. 15

Heirs of Roos, Dr. Simon
Konigstein (Taunus)

Wels, Max
Ippenscheid (Eckweiler)

von Clemm, Werner
Syosset, L. I., N. Y.

Industrial Investment Corporation
Address unknown

Luxemburger Union Bank
2b Boulevard Royal
Luxembourg

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NATIONALS OF THE NETHERLANDS

NAMES AND ADDRESSES

Amsterdamsche Bank Financielle
Amsterdam, Netherlands

Amsterdamsche Goederen Bank N.V.
Amsterdam, Netherlands

Anglo Continental Trust Co., Ltd.
Address unknown

Anglo Dutch Banking & Trading Company
The Hague, Netherlands

Bieruma-Costing, Mr. G. F.
Address unknown

N. V. De Centrale Arbeiders Verzekering on Deposito-bank
The Hague, Netherlands

Dordal, Pedro Vinas
Address unknown

Duyvis, J. B.
Amsterdam, Netherlands

Van Eegnen & Co.
Amsterdam, Netherlands

Von Freybourg, Charley George Gustav
Probolingo, Java
Netherlands East Indies

Handelstrust West, N.V.
Amsterdam, Netherlands

Jacoby, Bruno Walter
Amsterdam, Netherlands

De Javasche Bank
Batavia, Java
Netherlands East Indies

P. J. Landry's Bankiers Kantoor
The Hague, Netherlands

Van Eeghen & Co. Blocked Securities Account Re-Family Fund Miessegaes
address unknown

N. Neuberg & Co.
Amsterdam, Netherlands

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NATIONALS OF THE NETHERLANDS (CONTINUED)

NAMES AND ADDRESSES

Kahn, Emanuel
The Hague, Netherlands

N. V. Potash (Kali) Export My., Inc.
Address unknown

Royal Dutch Airlines
Address unknown

Eberling & Gleichman Buys, N.V.
Rotterdam, Netherlands

Schill & Capadose
The Hague, Netherlands

de Swaan, Abraham
Address unknown

Vernes & Co.
Address unknown

Wertheim, Miss E. M.
Aerdenhout near Haarlem, Netherlands

Westerwoudt & Co. J.
Amsterdam, Netherlands

Estate of Elaine Evans Labouchere
Address unknown

Wodan Handelsmaatschappij N.V.
Rotterdam

Handelsvereeniging Overzee N.V.
"Havero", Rotterdam
N.V. Potash (Kali) Export Maatschappij
Amsterdam

Bank voor Noord Nederland
Groningen
B
Bank voor Nederlandschen Arbeid N.V.
Amsterdam

Bank voor Westeuropaeische Handel
Amsterdam

Handelstrust West, N.V.
Amsterdam

Handelsmaatschappij H. Albert de Bary & Co.
Amsterdam

Rhodius Koenigs Handel-Maatschappij N.V.
Amsterdam

Bank voor Handel en Scheepvaart N.V.
Rotterdam
C
Continentale Handelsbank, N.V.
Amsterdam

Administratiekantoor "Unitas" N.V.

Combined Investment Corporation
N. Y.

Northern Bond & Share, Ltd.
Newfoundland

A. C. Investment Corp. Ltd.
Newfoundland

Fund of Emil Busse
held in account of Hollandsche Koopmansbank

N.V. Administratiekantoor voor Internationale Belegging (NAKIB)

N.V. Ex. & Import Mij. Roessingh & Co.
Amsterdam

Funds of Kalle & Co. - held in account of Hollandsche Koopmansbank and Holland American Merchants Corp.

Clara B. Thomas

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NATIONALS OF NORWAY

NAMES AND ADDRESSES

Bergen Preserving Co. A/S
Bergen, Norway

Magnus Konow
Address unknown

Den Norske Creditbank
Oslo, Norway

NATIONALS OF POLAND

NAMES AND ADDRESSES

D'Erbstein, Eugene
Address unknown

D'Erbstein, Marie
Address unknown

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104308

AUG 6 1947

Dear Mr. Listis:

This Department is seriously concerned with the substantial number of blocked accounts still to be certified under the procedure of General License No. 95. It is apparent, of course, that the certification procedure cannot be indefinitely prolonged. We feel that it is therefore necessary to take some action which will simplify and expedite the operation of the procedure without prejudice to its basic purpose, i.e., the discovery of assets in which an enemy has an interest.

Accordingly, we intend to issue in the near future a general license which will provide for the unblocking without certification of all accounts in which the property has a total value of less than $5,000 on the issuance date of the general license. By this removal of the blocking controls over a relatively large number of accounts which constitute an insignificant proportion of the total blocked assets, the governments of the countries included in General License No. 95 will be able to place full emphasis on the more important problem of investigating the larger accounts. It is realized that possibly some minor enemy assets in the United States may escape detection. It is our belief, however, in which other interested agencies concur, that any such loss will be outweighed by the benefits which will accrue to this Government and to the governments of the General License No. 95 countries from the concentration of effort which will be placed on the more important accounts.

In view of this step, you may consider the final sentence of paragraph (3) of the letter of September 9, 1946 from Mr. P. Economou-Gouras, Charge d'Affaires a.i. of the Greek Embassy, to the Secretary of the Treasury to be amended to read as follows: "It is understood, however, that it will not be necessary to obtain such assurances where the value of the property involved is less than $5,000." It is not intended of course that, where the value of the property in an account is over $5,000, applications for certification of parts of the property will be granted separately.

At the same time, there will be unblocked under the general license (1) all interests of non-enemies in the estate of any decedent who at the time of his death was not for any purpose regarded as a national of a country designated in the Order; (2) all interests of non-enemies in any trust administered in the United States other than any interest of the settlor if, at the time of creating the trust, he was resident in a country that is now a blocked or a General License No. 94 country; and (3) property paid or distributed to non-enemies from any trust or estate pursuant to Treasury license. The unlikelihood

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of there being any enemy interest in such cases is apparent. Removal of these assets from the operation of the certification procedure will further permit the placing of greater emphasis on the investigation of those assets in which enemy interests may exist.

Our recent action whereby direct certification may be issued with respect to assets held by a resident of one General License No. 95 country through a depository in another General License No. 95 country was likewise taken with the same aim of facilitating operations under the defrosting program.

These measures will not only accomplish the stated objective of expediting the discovery of enemy assets but will also substantially reduce the problem with respect to the ultimate disposition of the uncertified residuum. We expect to inform your Government in the near future concerning our plans for resolving this problem.

Sincerely yours,

JOHN S. RICHARDS
John S. Richards,
Director

Mr. Alexis S. Liatis, First Secretary,
Embassy of Greece,
2221 Massachusetts Ave., N.W.,
Washington, D. C.

BGlaser:MWSchwartz:emp 8-1-47

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TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE July 18, 1947

TO : Mr. Southard

FROM : John S. Richards

In our discussion the other day you expressed an interest in having a copy of the latest draft of the press release dealing with property that remains blocked after some agreed date next spring. There is attached as Exhibit A a copy of the latest draft press release. This release has been discussed with the Department of Justice and with the State Department and both departments have indicated their tentative concurrence. We expect to obtain their final concurrence in the near future. It has been my thought that we could then use the draft press release as a basis for informing the financial community through Mr. Atkins' Foreign Exchange Committee in New York of our plans for winding up our controls over blocked accounts. It is my intention to arrange a meeting with Mr. Atkins shortly after he returns on August 15th from his vacation.

I thought you might also be interested in reviewing certain memoranda which contain background information concerning this problem. Accordingly there are attached the following:

Exhibit B - A copy of my memorandum to Mr. Overby of January 16, 1947, on the subject of "Resolution of Problem of Uncertified Accounts"

Exhibit C - A copy of Mr. Overby's memorandum to Secretary Snyder of January 23, 1947, transmitting to the Secretary the memorandum described immediately above

Exhibit D - A copy of my memorandum for the files of March 14, 1947, covering the results of a conference with Secretary Snyder concerning the problem of uncertified accounts and of the Foreign Funds Control budget for fiscal 1948

Exhibit E - A copy of Mr. Overby's memorandum to the Secretary of January 16, 1947, concerning "Provision for Possible Residual Problems of FFC after June 30, 1947," which memorandum is referred to in the first paragraph of Exhibit D

Exhibit F - A copy of my letter of April 4, 1947, to the Office of Alien Property concerning the problem of uncertified accounts. A similar letter was sent to the Department of State on the same date

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Exhibit G - A copy of the justification statement submitted by the Bureau of the Budget to the Congress regarding our request for funds for the fiscal year 1948.

Exhibit H - A copy of a statement made by me on Monday, June 2, 1947, to the Chairman and members of the House Appropriations Committee supporting our request for funds for fiscal 1948 together with copies of letters from the State Department and the Department of Justice supporting our request. Copies of the letters were given to the Appropriations Committee for inclusion in the record.

Certain of the above exhibits contain information concerning FFC not directly related to the problem of uncertified accounts. You may, however, be interested in this material also.

Except for the copy of the draft press release I would appreciate your returning the remaining exhibits after they have served your purpose if this is agreeable to you.

John D. Richards

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(as agreed at mtg 7/11 since revised)

Exhibit A.

DRAFT PRESS RELEASE

Secretary of the Treasury Snyder and Attorney General Clark today jointly urged that all persons whose assets may be unblocked under established Treasury procedures, such as by certification under General License No. 95, avail themselves immediately of the appropriate procedure in order to avoid the vesting of property held in their names. They announced that on April 1, 1948 all property at that time remaining blocked under the freezing order will be presumed to be enemy property and subject to vesting by the Office of Alien Property in the Department of Justice. Secretary Snyder stated that such action is essential to insure that upon the termination of the wartime controls exercised by the Treasury Department, enemy assets concealed here will not escape but instead will be used to compensate this country to some extent for the losses suffered during the war.

Effective April 1, 1948, the administration of blocked assets by or on behalf of the record owners will no longer be permitted. Outstanding licenses authorizing withdrawals or changes in form of blocked assets, including their release under General License No. 95, will become inoperative.

It was emphasized that, although the Department of Justice has authority to release property which in fact as well as in name belongs to friendly or neutral persons, no such release will be made without prior consultation with the government of the country of which the alleged owner is a resident. Claims for the return of property vested by the Department of Justice must, under United States law, be filed within two years of the date of vesting.

Attention was called to the procedures already established by the Treasury Department for the release of non-enemy blocked property. For example, most blocked European countries have now been included in General License No. 95.

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between now and April 1, 1948 residents of these countries may obtain the unblocking of their assets by applying to the appropriate governmental authorities in the countries where they reside provided, of course, that those authorities are satisfied that there is no enemy interest in the property concerned. Moreover, the Treasury Department recently announced in Public Circular No. the procedures to be followed in obtaining the unblocking of their property by American citizens within any blocked country and by individuals residing in Germany, Japan, Hungary, Roumania, and Bulgaria who are not citizens or subjects of any of those countries or who were victims of Nazi-Fascist or Japanese persecution.

The governments of countries included in General License No. 95 are giving their residents public notice of the action which will be taken on April 1, 1948 by this government against assets in the United States which have not been certified by those countries. Those governments are urging their residents to apply to them immediately for the certification of assets in the United States held in their names, if the assets qualify for certification. It is suggested that persons in the United States holding blocked assets of foreign nationals immediately inform such nationals of today's announcement.

It was pointed out that at present no procedure exists under which residents of Spain or Portugal, other than United States citizens, may obtain the release of property belonging to them. If the governments of these two countries would shortly reach accords with the allies concerning restitution of looted gold and the disposition of German assets located within their respective jurisdictions, it should be possible expeditiously to arrange a procedure for the unblocking of assets of residents of those countries.

It was also noted that no procedure exists at present for the unblocking of assets in the names of residents of Yugoslavia, although this question is being discussed currently in conjunction with other questions. Arrangements have not

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been worked out with respect to the blocked assets of Estonia, Latvia and Lithuania. A similar situation exists with respect to assets standing in the names of residents of Hungary, Roumania and Bulgaria, who are citizens or subjects of these countries and who were not victims of Nazi-Fascist persecution. Assets held in the names of such residents will be subject to vesting by the Office of Alien Property on April 1, 1948, unless events make it possible to release those assets from blocking controls prior to that time. Blocked assets in the names of residents of Germany and Japan, who are citizens or subjects of Germany or Japan, are presently being vested by the Office of Alien Property, unless the person owning the assets is a victim of Nazi-Fascist or Japanese persecution.

Treasury officials stated that this announcement in no way affects the control over importations of securities specified on the list attached as a part of General Ruling No. 5.

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Swiss letter on new GL

FOREIGN FUNDS CONTROL

on 105 229 of 7/22

7/18/47

Mrs. M. Schwartz:

I think you told me that the attached memorandum had not yet been distributed. It sounds all right to me except for the one change I have indicated. I suggest that you write to Jim Mann sending him a copy and explaining that we expect to inform the Swiss Government through him and that he can expect a letter in a few days. In this connection, you will recall that I promised Widmer I would inform him of the nature of our communication to the Swiss Government. You might consider sending Widmer a note containing the desired information. It will probably be advisable to tell Jim that we are doing so so that he will transmit to the Swiss the exact text of whatever we suggest so that there will be no variation between the letter we send to Widmer and the letter Jim sends to the Swiss Government.

JSR

JOHN S. RICHARDS

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FOREIGN FUNDS CONTROL

M. W. Schwartz

This shd be retained and made a part of the file to accompany the communication to the 95 countries + later the proposed General Licenses.

[Letter to Mann]

J. S. Richards 6/18/47

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OFFICIAL COMMUNICATIONS TO
THE SECRETARY OF STATE
WASHINGTON 25, D. C.

DEPARTMENT OF STATE
WASHINGTON

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TO ANS. SEC.
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In reply refer to
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June 11, 1947

My dear Mr. Richards:

Reference is made to your letter of May 23, 1947 (104347), enclosing a draft of a letter to all countries specified in General License no. 95 outlining a proposed general license which would unblock certain small accounts and other property in which there is unlikely to be an enemy interest.

This Department has no objection to the proposed general license, nor to the draft letter which will be sent to General License no. 95 countries.

Sincerely yours,

Walter S. Surrey

Walter S. Surrey
Chief
Division of Economic
Security Controls

Mr. John S. Richards, Director,
Foreign Funds Control,
Treasury Department,
Washington, D.C.

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170-5

DATE: 8-4-47

[redacted]

INDEX:

TO:

FROM:

SUMMARY: Memo dated 6-6-47 from Elting Arnold to J. S. Richards re: Attached letters and public circular concerning applications for the release of property belonging to persons residing in enemy countries, who are not citizens of those countries.
Letter #104346 6-16-47 from FFC to State Dept., Mr. Surrey re: Contemplation of the issuance of a Public Circular, a copy of which is attached. Comments, requested.

Memo #105301 6-30-47 from State Dept., W. A. Silver to FFC re: Ref. made to letter #104346 from FFC. Letter under consideration.

Letter #105540 7-25-47 from State Dept., Walter Surrey to FFC re: Ref. made to letter #104346, dated 6-16-47 from FFC. Views outlined.

FILED: DEFROSTING: GENERAL FILE

REMARKS:

FOREIGN FUNDS CONTROL
CORRESPONDENCE REFERENCE FORM

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100871

DEC 19 1946

Dear Dr. Dwork:

Reference is made to your letter of November 6, 1946, with respect to the disposition of blocked assets owned by Jewish persons in Hungary, Bulgaria, and Rumania.

We are pleased to advise that sympathetic consideration will be given to specific applications for the release of blocked property belonging to persons in Hungary, Rumania, or Bulgaria, who, if their property had been vested by this Government, would be entitled to the return of such property under Public Law 671. Such applications should be filed in duplicate with the Federal Reserve Bank of New York on Form TFE-1 and should show that the applicant is within the class described by such law and that no other person has an interest in the assets in question.

Sincerely yours,

s/ John S. Richards

John S. Richards
Deputy Director

Dr. C. Irving Dwork,
World Jewish Congress,
1834 Broadway,
New York 23, New York.

Pollak:me 12-11-46
J.K. Manning

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COPY

11/14/46

ORAL STATEMENT

The agenda for the discussions on the subject of German assets in Sweden and related questions held in Washington during last summer between representatives of the Swedish Government on the one side, and the United States, British and French Governments on the other, also included the question of deblocking Swedish funds in the United States. Although this is a matter which concerns only Sweden and the United States, it was, during these discussions pointed out to the Swedish delegates, that, if a settlement was reached on the question of the German assets in Sweden, the deblocking of the Swedish funds in the United States would follow.

Certain proposals on the procedure for deblocking were put forward in a "draft letter" from the Treasury Department. This draft, however, was given to the Swedish representatives informally before any agreement was reached on the German assets and the procedure for their elimination and liquidation. It, therefore, could obviously not take into account the stipulations of that agreement. The Swedish representatives did not find it called for to stress the various points on which the draft seemed to them to be at variance with the agreement as they took for granted that the stipulations in the "draft letter" should be adjusted so as to correspond to the principles already agreed. On that presumption the question of the procedure for deblocking was left open for later discussions on a technical basis.

As, however, the exchange of opinions that has taken place in Washington after the signing of the agreement seems to show that the U.S. Treasury regard the draft as representing an appropriate solution of the deblocking question without the adjustments anticipated by the Swedish party, the Swedish Government would like to draw the attention to the following points.

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I. The agreement of July 18th settles the question of segregation and elimination of all German interests in Sweden, including assets in third countries held indirectly through Sweden. A special letter forming part of the accord deals with this latter question, viz. letter No. 2 and 2a. According to this letter, the Swedish Government has undertaken to take appropriate action to identify such German assets as may be held outside Sweden by or through Swedish nationals or institutions, and to make this information available to the Allied Governments.

The Swedish Authorities are at present carrying out investigations in this respect and the result will in due course be communicated to the Allied Governments.

When the Question of segregating and uncovering German assets in U.S., held through Sweden, has been solved by the stipulations of the main agreement, there is, according to the views of the Swedish Government, no further reason for the complicated and cumbersome procedure for deblocking so far suggested.

The Swedish Government is well aware that procedures similar to those suggested for Sweden are being applied with respect to countries which so far have been included under General License 94 and 95. In this respect it would, however, make the following observations: 1° the procedure suggested for Sweden in several respects seems to imply more far-reaching obligations than those undertaken by these countries, 2° no special agreement on German assets like the one signed with Sweden on July 18th, has been concluded with these countries.

II. The proposals made by the Treasury department also seem to imply an extension of the notion of "German assets" in order to comprise property in the United States belonging to Swedish nationals, who, in their turn, may have or have had certain obligations to Germany or property in which German nationals otherwise have an interest. This seems to be the purport of certain clauses suggested with respect to indirect German interests, or "beneficial interests". The principle of a special treatment of "beneficial interest", was, however, not

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accepted in other respects in the understanding of July 18th, e.g. with respect to Swedish interests in Germany and does not seem to be in accordance with the general principles of the main agreement.

The Swedish Government are prepared to reopen the discussions on the deblocking question whenever it is agreeable to the U.S. Government. With reference to the above observations the Government wish to stress that they will find it difficult to accept a solution of the problem which is not in accordance with the principles and arrangements of the main agreement. It is obviously of importance to reach an understanding on the deblocking question before the final discussion of the main agreement in the Swedish riksdag.

cc: Messrs. Richards, Alk, Rains, Williams, Glasser, Taylor, Mrs. RShwartz, Mrs. MWSchwartz and General Records

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November 13, 1946.

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John W. Cutler, Esq.,
Office of Alien Property Custodian,
The Press Building,
14th and F Streets,
Washington 25, D. C.

Dear Mr. Cutler:

The last time I was in Washington, I discussed briefly with you the problems which might arise in connection with holders of foreign property, particularly banks, in the event a "blanket vesting order" should at any time be made vesting all the property not heretofore vested in German account. Our discussion indicated that you were well aware of the problems involved, and had given some consideration to meeting those problems not only as to German property but perhaps to others as well. You suggested that I might write you a memorandum setting forth the questions as we see them, with suggestions as to how they could be met to accomplish the purpose and intent of the Alien Property Custodian while, at the same time, avoiding any unintended liability upon the banks by clarifying the banks' obligations.

I have given some further thought to this matter and have crystallized these ideas in the "form of a blanket vesting order", two copies of which I enclose; with these, is a brief statement of the purpose and intention of each paragraph. The form follows the form heretofore used by the Custodian in specific vestings and does, I believe, not only accomplish the intention of the Alien Property Custodian but gives some latitude in his operations while at the same time it should be unobjectionable from the standpoint of the holders of the property. The problem of the holders of property, as I conceive it, is definiteness as to their obligations and assurance that in fulfilling the demands of the Alien Property Custodian the holder is definitely protected by the exculpatory clauses of Sec. 5(b) of the Trading With the Enemy Act. Since I know that the effort of the Custodian is to perform his necessary duty in respect to foreign property with the minimum of dislocation of normal banking procedures, I have kept these twin ideas in mind, and trust that my suggestions as thus incorporated in the enclosed forms will be of use to you.

Copies to Messrs. Friedman, Richards, RShwartz, MSchwartz,
Rains, Pollak - 11-19-46

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As I shall be in Washington soon, I will take the opportunity of calling you and discussing with you, if you care to do so, what I might term variations which I conceive possible, depending upon certain circumstances with which I am not wholly familiar - these being, policies and intentions of the Alien Property Custodian's Office. As I always feel, however, that an idea is best expressed if placed in one direct manner, I have resolved any such questions in my own mind and have not put in the order any alternatives or variations.

In previous discussions on other related matters, as you know, I have adopted this same approach, which I believe we both feel has helped to clarify the propositions involved for discussion.

Trusting that in this matter I have been of some service to you, and with appreciation for your courtesies in this and other matters, I am,

Yours very truly,

Harvey Reeves

WHR:ers

Enclosures

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MEMORANDUM RE PROPOSED BLANKET VESTING ORDER

Attached hereto is a draft of a proposed blanket vesting order.

The form of this proposed order follows that which has uniformly been used by the Alien Property Custodian. Since, however, new sections have been added and the language in numerous instances modified as an aid to the reading and understanding of the attached proposed blanket vesting order, it seems well to add a brief statement as to the purpose of each paragraph:

Paragraph 1: Description of property to be vested, i.e., all Italian property as of June 14, 1941, (when it was first blocked), and any other that has been subjected to the order since that date except such as has been paid out under license.

Paragraph 2: This is the operative vesting part of the order. It follows the usual form with, however, such changes as seem necessary.

Paragraph 3: (p. 2). The APC's order refers to "appropriate account." The appropriate account in this instance is, of course, a blocked account. The provision is that the property shall be continued to be held until a demand is made therefor, which demand shall carry the three provisions indicated.

Paragraph 4: (bottom of p. 2). Usual provision of APC account, with such modifications as are necessary.

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Paragraph 5: (p. 3). The term "national" is re-defined. This is the usual definition. However, it will be observed throughout that Italy is not referred to "as an enemy country", since it is not known whether the property will be vested as such, or under powers equally broad to vest property of friendly aliens. (Compare paragraph 2).

Paragraph 6: (bottom of p. 3). This continues any licenses which may be outstanding for support, living expenses or business operations, since a vesting order which cancelled those immediately might cause unnecessary hardship, it seemed best to continue these and exempt the property thus paid out. The APC can stop these payments at any time by specific demand.

Paragraph 7: (p. 4). This defines the property to be vested in the broadest possible terms, but relieves the holder thereof from liability if he does not know the property was Italian. This follows similar procedure of the New York attachment law, and laws generally as to "notice".

Paragraph 8: (p. 4). This is in the form of an injunction, indicating that any payment out other than specifically excepted is in violation of the Trading With the Enemy Act.

Paragraph 9: (bottom of p. 4), providing that the order shall be notice of vesting, and that reports of property held must be made.

Paragraph 10: This provides that any vesting shall be deemed as of the date of the order.

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Discussion: Throughout, the effort is made to do two things: (1) to vest all Italian property at one specific time and by one order, and (2) to protect the holders of that property from making the final decision, which they have no authority to make as to any particular property, that it is in fact Italian. The controls of the Treasury are remitted upon vesting and, therefore, any property which is not under the order as shown by a subsequent pointing out of such property, remains as unvested property. In other words, all Italian property is vested, but the segregation of what is vested and what is not vested from a mass of property which might be Italian is reserved. The obligations of the holder of the property are defined, and no additional liability is placed upon such holder. It seems unnecessary to publish in the Federal Register the description of property thereafter vested, since the notice that all Italian property is vested is sufficient notice. If any property is thereafter received by the APC in error, the owner of the property has his usual remedies but the holder of the property (in many cases a bank) is protected under the exculpatory clause of Sec. 5(b).

Where the procedure, as suggested, seems to depart from that previously followed by the APC, it follows the procedures of the New York law of attachments. It is believed no questions as to propriety have been raised or, if raised, have been settled in favor of the suggested procedure.

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[BLANKET VESTING ORDER NO. 1]

PROPERTY OF ITALY OR ANY NATIONAL THEREOF.

This order relates to all property subject to the jurisdiction of the United States, as of the date hereof, in which the Kingdom of Italy, or any successor Italian Government or any national ~~of any~~ thereof, has, or at any time on or since June 4, 1941 had, any interest of any nature whatsoever, direct or indirect, except such property as may have since such date been paid, transferred, sold or otherwise disposed of under license duly issued by the Treasury Department of the United States, or such property which has been exempted therefrom, or has been received within the United States subsequent to----------. 194-.

Under the authority of the Trading With the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned finding that all property or interest in property of, payable or deliverable to, or claimed by, any national of Italy, is property of a designated country with which the United States has been at war, i. e., the former Kingdom of Italy, and determining that to the extent that any nationals of such country are persons not within a designated enemy country, the national interest of the United States requires that such persons be treated as the nationals of a designated enemy country, and having made all determinations and taken all action required by law, including appropriate consultation, and deeming it necessary in the national interest (and here add any phraseology to conform to any

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international understanding, agreement or treaty, actual or proposed), hereby vests in the Alien Property Custodian all the property, or interest in property, herein mentioned or referred to, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest and for the benefit of the United States.

Such property and any and all of the proceeds thereof shall continue to be held in such appropriate account or accounts as such property are now held or, in the event that any such property be not held in any appropriate account, that it shall forthwith be paid or delivered into such account or otherwise be held and treated as vested property, all of which shall be held for the account of the Alien Property Custodian pending further determination and direction, but no such property is required to be paid or delivered to the Alien Property Custodian by anyone having the care, custody or control of any such property herein, hereby vested, unless and until a demand shall be made therefor which shall: (1) specifically describe the property to be delivered to him pursuant to this vesting order, and (2) specifically find that the property so described belongs to or is that in which a national of Italy had an interest, and (3) is vested by this order.

This order shall not be deemed to limit the power of the Alien Property Custodian to release any such property referred to herein prior to the receipt by him thereof, or the proceeds thereof in whole or in part, or to return such property, or the proceeds thereof, in whole or in part, after the said property shall have been received by

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him, nor shall this order be deemed to limit the power of the Alien Property Custodian to pay compensation in lieu of the return of said property or the proceeds thereof, but no compensation shall in any event be paid for any such property mentioned in this order unless and until the same shall have been demanded and received by the Alien Property Custodian, nor shall this order be deemed to limit the power of the Alien Property Custodian to take any one or all of any such actions authorized hereunder in respect to the said property or any part thereof, or the proceeds of the said property or any part thereof.

The term "national" of a designated enemy country as used herein shall have the meanings prescribed in Section 10 of Executive Order No. 9095, as amended, and for the purpose hereof a national of Italy shall be deemed to be included within the definition of a national of a designated enemy country.

Notwithstanding any of the provisions herein, unless and until a specific demand shall have been made by the Alien Property Custodian hereunder, any property which is due and payable as of the date hereof or may hereafter become due and payable, or otherwise transferable from any account covered by this order, which said payment or transfer has heretofore been licensed specifically or by general license, shall not be deemed to come within the purview of this order unless and until demand shall have been made as herein provided, after which time no further transfers or payments shall be made.

This order shall apply to any and all property of any national

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of Italy, or debt owing to him, or to any interest of any national of Italy therein or thereto held or owed by any person under the jurisdiction of the United States, except that as to such person it shall not apply to any such property, debt or interest if the person holding the same has no knowledge or reason to believe that the said property or debt belongs or is owing to such national of Italy, or is claimed by him or on his behalf, or that he has or claims to have an interest therein, unless and until such property, debt or interest therein shall be specified in a demand served hereunder upon the person so holding the said property or owing the said debt.

Subject to the exceptions herein contained, from the date hereof any person holding any property of any national of Italy, or owing any debt to such person, shall not make or suffer any transfer or other disposition of, or interfere with any such property or interest therein, or pay over or otherwise dispose of any debt or sell, assign or transfer any right therein to any person or persons, other than to the Alien Property Custodian. Any such payment, sale, assignment or transfer shall be in violation of Sec. 5(b) of the Trading With the Enemy Act.

This vesting order shall be deemed notice to any person who has care, custody or control of any property in which a national of Italy has an interest, which is or should have been held by him as property blocked on the ground that a national of Italy had an interest therein, is vested in the Alien Property Custodian. Within ninety

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days from the date hereof every person subject to the jurisdiction of the United States who has in his possession, or under his care, custody or control, any property in which a national of Italy has an interest, shall file with the Alien Property Custodian a report concerning such property, or interest, as of the date hereof, on Form APC No. 56, giving such information concerning the property as therein required. Such a report shall be filed whether or not said person has filed a report concerning the same property on Form TFR-300.

Any property which, pursuant to this order, is hereafter received by the Alien Property Custodian shall be deemed to have been vested by him on the date hereof, and the title thereto transferred forthwith regardless of the date on which actual demand shall have been made therefor or the date on which actual delivery or payment pursuant to said demand shall have been made.

Executed at Washington, D.C. on , 1946.

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יידישער וועלט-קאנגרעס **WORLD JEWISH CONGRESS** העולמי

CONGRÈS JUIF MONDIAL **CONGRESO JUDIO MUNDIAL**

NEW YORK 23, N. Y.
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ADR. TEL.: CONGRESS NEW YORK
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Unione delle
Comunita Israelitiche
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Grev Magnigatan 11
SYDNEY
G.P.O. 1869K

Washington Office
1621 CONNECTICUT AVENUE, N. W.
WASHINGTON 9, D. C.
Tel. HObart 8609

November 6th, 1946

Ans. dated 12/19/46

Mr. Harold R. Pollack
Foreign Funds Control
Treasury Department
1406 G Street, N.W.
Washington, D.C.

Dear Mr. Pollack:

As you know, Public Law Nr. 671 enacted on August 4, 1946, provides for the possibility of returning property vested in or transferred to the Alien Property Custodian, to Jewish owners regardless of their residence. It must, however, be considered that properties owned by nationals and residents of the satellite nations, (Hungary, Romania, Bulgaria), have never been vested in the Alien Property Custodian; they were only blocked.

As you, furthermore, know, the forthcoming peace treaties will provide for the right of the Allied nations to confiscate the assets of Bulgaria, Romania and Hungary and their nationals, which will be found within the boundaries of the Allied Power, except for a possible excess of these assets over the claims of the Allied nations against the former enemy country. It is assumed that the United States would have to make public to the former enemy, e.g. Bulgaria, the lists of all owners of such assets, and to account for these properties. If this procedure is followed it will mean that the Jewish owners of such assets here will face two very serious problems:

a) the former enemy countries will learn of the existence of assets they did not know about before. No doubt, at least some of the assets were brought out of the country in contravention of currency regulations which existed at that time. The owners of the assets may thus become liable for punishment.

b) the owners may lose the small amounts they succeeded to preserve and make secure.

Our task is, therefore, twofold:

1) To prevent that the United States gives out the names of holders of such assets;

2) To achieve that the assets of Jews from former enemy countries be not seized as reparations.

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We presume that the United States has, through law 671, made clear that Jewish assets will be treated differently from non-Jewish and that Jewish holdings here will be given back to their owners. Since the Trading with the Enemy Act deals with properties transferred to the Alien Property Custodian, the aforecited law refers to such properties only. It should, however, be apparent that blocked properties could not be treated less favorably than seized and that the principle of law 671 should also be applied to the assets of nationals of the satellites, which were frozen but not transferred to the Alien Property Custodian.

Key!

I am anxious to know whether the Treasury Department has already established a policy toward the assets of Romanian, Hungarian and Bulgarian Jews, living outside the USA, and whether the principle of law 671 is applicable to them. Furthermore, it should be made clear that it is of greatest importance that the names of holders of such assets not be given out to the respective governments and that they not be used to compensate American claims. Should you consider that we have to submit a detailed memorandum, I shall do so.

I attach herewith a memorandum containing the main features of existing legislation.

Sincerely yours,

C. Irving Dwork

C. Irving Dwork

CID:PW
Encl.

PS: Has anything at all materialized with regard to the masterless properties we discussed in our last conversation and in the memorandum sent you by Dr. Robinson? I am also anxious to learn whether American residents wishing to grant a power of attorney concerning properties located in Austria, still need permission from the Treasurey.

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October 21, 1946

Mrs. Margaret Schwartz

John S. Richards

Defrosting program

I would appreciate your Division making every effort to have the following additional defrosting results accomplished not later than January 1, 1947:

1. Have all foreign countries completely unblocked without certification except the following:

   (a) Germany and Japan

   (b) Bulgaria, Hungary, Rumania, and Italy

   (c) Switzerland, Sweden, Spain, Portugal, Liechtenstein, and Tangier

   (d) France, Belgium, The Netherlands, Denmark, Norway, Finland, Czechoslovakia, Luxembourg, Greece, Poland, Austria, and Yugoslavia

The exceptions listed in (d) above would not include any far eastern or western hemisphere possessions of any of the countries listed.

I suggest that the simplest way to accomplish this result would be to revise the definition of the generally licensed trade area under General License No. 53 to include all foreign countries except those specified above. It is my understanding that clearance has already been obtained from the State Department and where necessary from the Office of Alien Property for the unblocking without certification of all far eastern areas except Japan and of all the western hemisphere possessions of the countries listed in (d) above. Accordingly in order to carry out this program the only further clearance we need obtain is for the unblocking without certification of Albania, Estonia, Latvia, and Lithuania and for the inclusion of Turkey in the generally licensed trade area. You are requested therefore to immediately institute the necessary action to obtain clearance on these points.

The effect of this action would be that for defrosting purposes all foreign countries would be included in one or the other of the following categories:

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(a) Real enemy countries whose assets would be subject to vesting and with which current transactions would still be subject to General Ruling No. 11.

(b) Satellite enemy countries with which current transactions are authorized under General License No. 94 and whose old property must await disposition in accordance with peace treaties.

(c) Neutral and formerly occupied countries in Europe with which current transactions either have been or will be authorized under General License No. 94 and whose existing assets will be released pursuant to the certification procedure under General License No. 95.

(d) All others where there will be complete unblocking without certification under General License No. 53A

I believe the above action would enable us to revoke a number of our present public documents, such as General Ruling No. 18 relating to the Philippine Islands, Public Circular No. 27 relating to Syria and Lebanon, and numerous others, thus simplifying the regulations with which the banks and others will be expected to comply.

2. The inclusion of all of the countries listed in 1 (c) and (d) above in General License No. 95 providing for the release of their assets through certification. It is recognized that Portugal, Spain, and Yugoslavia may, however, present special problems and that the inclusion of Switzerland, Liechtenstein, and Sweden depend for the most part upon the reaction of those countries to our most recent defrosting proposals.

3. General Ruling No. 5 controlling imports of securities and currency to be amended to relate only to securities of United States issuers or payable in dollars which are known to have been looted by the enemy and the complete termination of all prohibitions presently in effect under Section 2 of the Order, thereby removing all prohibitions concerning stamped securities and securities physically located outside the United States.

4. General Ruling No. 11A and other documents containing similar restrictions to be amended in accordance with the proposal made some while ago to the Department of State and rejected by that department. In this connection I understand Mr. Gewirts has considerable information indicating that the State Department fears concerning candidates for deportation to Germany and Japan were considerably over emphasized.

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5. The revocation of all other regulations which become unnecessary as a result of the above program.

6. An agreed upon procedure for dealing with noncertified blocked property.

7. As complete a relaxation of our controls over current transactions with Germany and Japan as is consistent with the desires of the State and War Departments.

In addition it is hoped that the forthcoming Brussels conference will result in agreements as to principles for resolving conflicting custodian problems with the allied and neutral countries. I will rely on your Division in cooperation with the Enforcement and Legal Divisions to carry out as nearly as possible the above program.

(SIGNED) J. S. RICHARDS

cc: A.Overby, J.Friedman, I.Alk, E.Arnold, R.Shwartz, and General Records

JSRichards:ltm 10/21/46

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March 5, 1946

: Mr. Pehle

: J. S. Richards

Re : Status of Defrosting Program

On December 7, 1945 Treasury Department issued General License No. 94 which removed all freezing controls over current transactions with all blocked countries except Germany and Japan, Portugal, Spain, Sweden, Switzerland, Liechtenstein and Tangier. With respect to the liberated countries of Europe and the Far East, as well as to Bulgaria, Hungary, Italy and Rumania, blocking controls were thus retained only over property in the United States which was blocked on the effective date of the general license and income from that property. A procedure for the release of such blocked property had been worked out even prior to the issuance of General License No. 94, with the intention of applying it as rapidly as possible to the liberated countries.

Under this procedure defrosting discussions with representatives of the governments of the various foreign countries are carried on in conjunction with State Department to arrive at a basic agreement under which Treasury controls can be removed while the interests of this Government in uncovering and mobilizing enemy assets are fully protected. In brief, assurances are obtained from the foreign governments that investigations will be made of all assets here in which their nationals have an interest and that such assets will be certified for unblocking only when the foreign governments are satisfied as to the absence of enemy interests. Upon the obtaining of such assurances from any foreign government, as evidenced in a letter to the Secretary of Treasury from the Minister of Finance (or other appropriate official), the certification procedure for the release of blocked property is put into effect for that country. This unblocking is effected under Treasury General License No. 95 which authorizes the unblocking of all property certified in accordance with the terms of the license. In other words the property certified under General License No. 95 becomes freely available for use under General License No. 94.

At the present time five countries are covered by General License No. 95; namely, France, Belgium, Norway, Finland and the Netherlands. Defrosting discussions with Denmark have been carried on both in Washington and in Denmark and signing of the letter of assurances is now awaiting only satisfactory implementation by the Danes of legislation designed to uncover and eliminate enemy interests in property in or held through that country. Negotiations with both Greece and Czechoslovakia were initiated some time ago. Both of these countries are now sending to Washington missions authorized to conclude

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defrosting arrangements and it is anticipated that our discussions with them can be completed in the near future. Although negotiations were initiated several months ago with Yugoslavia, it is expected that defrosting of both Yugoslavia and Poland may be delayed because of the complicating factor existing in both of these countries relating to compensation for American property nationalized or confiscated by these governments. No discussions have as yet been instituted with Austria.

For your information there are attached copies of General Licenses Nos. 94 and 95 (the Netherlands was added to General License No. 95 February 13, 1946) and of the letter of assurances received by the Secretary of the Treasury from the Netherlands Minister of Finance. The letters received from the other defrosted countries are substantially the same as the Netherlands letter.

Negotiations have not yet been undertaken with China and it is possible that because of the peculiar circumstances there a different unblocking procedure will be worked out. Freezing controls over Chinese assets were imposed in the first instance at the request of the Chinese Government as a means of strengthening its foreign exchange controls. To maintain our controls for this purpose for an indefinite time in the post-war period is clearly impossible even though it may still be desired by the Chinese Government. On two grounds, however, there is doubt that the technique of General License No. 95 should be used for the unblocking of Chinese assets. First in view of the unrealistic exchange rate we might cause considerable hardship upon Chinese holders of dollar assets if by requiring them to apply to the Chinese Government for certification we give that Government an opportunity of taking over such assets at the official rate. Second, organizationally and politically the situation in China is such that we could expect a certification program carried out by the Chinese Government to be extremely slow and subject to abuse. Further there is little evidence that the Japanese attempted to cloak their assets held in the United States through Chinese or other persons and it is, therefore, considered improbable that any significant amount of enemy assets would be ~~released~~ restored under ~~such a~~ procedure. Further, the British have recently, and without any type of certification procedure, unblocked Chinese assets held in the United Kingdom and by this step have given a certain advantage to British exporters to China over Americans. The unblocking of Chinese assets without certification by the Chinese Government is, therefore, under serious consideration by Foreign Funds Control, but no final decision has been reached.

We have now proposed to State and the Alien Property Custodian that the smaller blocked areas in the Far East such as Hong Kong, Siam and British Malaya be unblocked without certification.

The method and timing for defrosting the European neutrals is still undecided. It is expected that the forthcoming negotiations with Switzerland will provide an answer to this particular problem.

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Action with respect to the blocked assets of Bulgaria, Hungary, Italy and Rumania will presumably have to await the conclusion of peace treaties with those countries.

Under Executive Order No. 9567 issued on June 8, 1945, the Alien Property Custodian has been given the authority to vest all German and Japanese assets in the United States. To implement this expanded vesting program the Custodian has called for reports from all holders of such assets under which all such assets held on December 31, 1945 must be reported. These reports are currently being received by the Custodian and it is contemplated that the resulting vesting actions will cover substantially all German and Japanese property that is still subject to Treasury control. To facilitate the Custodian's work this Department made available to him the information in our records relating to German and Japanese property which had not yet been vested on June 8, 1945 and, even prior to the required reporting, some of this property has been vested by the Custodian.

For various reasons it is obvious that even after a certification procedure has been in effect for a considerable length of time there will be a residue of blocked assets which remain uncertified. In order to minimize the problem of the disposition of such property we are considering making available to the countries covered by General License No. 95 information obtained by this Department from the TFR-300 reports. Such action will be of considerable advantage to the foreign government in any centralization program it may be undertaking. It is felt that we can, in return for giving the TFR-300 information to any of the liberated countries, require that an amnesty be granted to its nationals who report their dollar assets prior to the date on which the government makes use of the information even though subsequent to the reporting date under the relevant regulations of that foreign government. It has also been suggested that in this same connection the governments of the liberated countries be requested to press the Swiss and other neutral governments for a census of assets of their nationals held within or through the neutral countries. We would also obtain an agreement from each country to which the information is given that they will promptly conclude the defreezing of eligible assets.

MWSchwartz:JSRichards:ebb 3/5/46

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By SR NARA Date 9-2-99

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AJR

Vol. II. No. 3 MARCH 1947

INFORMATION

ISSUED BY THE
ASSOCIATION OF JEWISH REFUGEES IN GREAT BRITAIN
8, FAIRFAX MANSIONS, LONDON, N.W. 3
Office and Consulting Hours: 10 a.m.—1 p.m., 3—6 p.m., Sunday 10 a.m.—1 p.m. Telephone: MAlda Vale 9096

RESTITUTION OFFICE

The " Council for the Protection of the Rights ıd Interests of Jews from Germany " of which ıe Association of Jewish Refugees in Great ritain is the British constituent member, will, ı the suggestion of the Control Office for ermany and Austria, Norfolk House, London, .W.1, open a

RESTITUTION OFFICE

ıder the management and direction of eichsgerichtsrat a.D. D. Cohn.

The Control Office have accorded official ecognition to the above office and have given ısurance that they will co-operate with it in ery possible way.

It should be noted that this step is not caused y any change in the legal position regarding stitution. In fact, the whole question is still eing discussed with the various authorities oncerned. It is felt, however, that our members ıd other interested persons including their gal advisers, with whom the office will keep ose contact and on whose activities the office oes not wish to encroach in any way, will welome a central office concentrating its activities all problems connected with restitution.

The activities of the office, therefore, will omprise

(1) To advise and inform refugees and their ivisers *generally* on all laws, ordinances, ecisions, etc., concerning restitution in any ırt of Germany or other countries, including rovisional measures for the protection of roperty pending further legislation such as rovided for by Law 52 of Military Government.

(2) To assist refugees and their advisers in etting information from German banks, ourts or other authorities which might be ecessary to prove or substantiate their claims herever difficulties are encountered.

(3) To accept applications for registration of aims against Germany for the restitution of or ompensation for property lost through " Interal Loot " which had to be made, until recently, the Control Office and now to the Zentralamt ıer Vermoegensverwaltung, Seilerstr. 28, tadthagen, Germany, and which in future may e passed on through the restitution office. In ıe interest of a survey of those claims which re being brought forward it is highly ecommended to make use of that facility.

If claims have already been made to the ontrol Office or Zentralamt, no further claim necessary for the time being.

(4) To assist refugees who are not in a osition to afford the services of a qualified legal dviser in preparing their applications for egistration and, at a later stage, in giving such ssistance as may be necessary when legislation ı restitution matters has been enacted.

The office will be situate on the premises of he AJR, 8 Fairfax Mansions, Fairfax Road, ondon, N.W.3, and will be open at the followıg hours: ***Monday, Tuesday, Thursday, from to 6 p.m., Sunday from 10.30 a.m. to 12.30 p.m.***

No charge will be made for forwarding an pplication for registration to the proper uthorities. In all other cases a basic charge f 5/- will be payable for every inquiry, and ostal orders to that amount should be sent ith any written inquiry. If in the discretion f the manager of the Restitution Office a ıatter involves special expense or extrardinary work, the office may be entitled to ake an appropriate higher charge.

The Restitution Office cannot make themselves esponsible in law for the correctness of any ıformation given though, of course, they will o their best to assist refugees in the right way.

NEW LIGHT ON RESTITUTION

We have repeatedly pointed at the political and economic difficulties which stand in the way of solving the restitution problem. During the past few months, negotiations in this respect have been intensified, and although no settlement has been reached yet, at last the outlines are becoming visible as to the trend a future solution is likely to take.

Partners of the discussions have been the Military Government, the Occupation Authorities, either separate in the different zones or united in the Allied Control Council, the German Laenderregierungen, the large Jewish organisations (refugee organisations and others), and the representatives of the Jews in Germany.

The following questions may be singled out from the intricate mass of problems:

(1) Will it be possible to achieve a restitution law for the whole of Germany or will the different zones promulgate different laws? Up to the present time no decision has been taken. Should a uniform law not be achieved it is to be hoped that at least joint agreement will be reached on the basic principles of Zonal laws.

(2) Will the law deal with compensation for *all* losses or will in the initial stage only the refund of existing identifiable property be considered and the vast range of compensation for money losses be reserved to a separate ruling at a later date? There seem to be indications which point to such a course because Germany's economic position is far from being so stabilised that complicated financial questions can be even touched upon at the present junction.

(3) A much contested subject is that of jurisdiction. Many cases will require the decision of a Court or Tribunal, and here the question arises whether German Courts or mixed Courts with Allied judges shall be competent. Our endeavours are focused on the elimination of German juries. However, we must realise that for lack of Allied manpower we shall not find full recognition of this demand, but we hope that at least the court of first instance will include a representative of the victims and that the court of appeal is to be constituted in such a manner that German influence is excluded.

(4) An equally weighty problem is that of the property of Jewish organisations and communities as well as the so-called heirless property which belonged to families who have been exterminated. Never must this property fall into the hands of the German state as it would happen if German law were applied. Most of the newly established Jewish communities in Germany are of a dwarfish shape, and therefore they cannot be considered as legal successors to the previous communities although, their interests have to be taken primarily into account. Here, a Jewish Corporation of an international juridical nature will have to be set up consisting of a representation of the former Jews from Germany now living outside that country, of a representation of the Jews in Germany and the important Jewish international bodies. This Corporation shall act as trustee for communal and unclaimed property and use the proceeds for resettlement and rehabilitation of the victims.

(5) To strengthen the fund of this Corporation it is under discussion to curtail the right of succession to a certain extent.

(6) The last and most subtle problem is that of transfer. Although we all know that restitution will become only then genuine when its practical inferences have been made accessible to the claimants outside Germany, we must be under no illusion that for the present and probably for the immediate future this side of the problem will remain unsolved. As long as Germany's economy is not put on a solid basis, as long as Germany's currency is not adjusted, this question will probably have to be shelved in spite of its importance.

This survey of pending negotiations reveals that the matter of restitution has neither been neglected nor forgotten. The efforts for a satisfactory settlement have involved and are involving painstaking work. We trust that the work will find its reward in the forthcoming Peace Treaty with Germany by recognition of Germany's responsibility for restitution towards Jewish victims.

In all those negotiations, the Association of Jewish Refugees and even more the Council for the Protection of the Rights and Interests of Jews from Germany have taken an active part. The negotiations are going on in London and Washington as well as in Germany, where the chairman of the AJR, Mr. A. Schoyer, is acting as representative of the aforementioned Council.

The announcement regarding the establishment of a Restitution Office officially recognised by the Control Office for Germany and Austria is evidence that the Council has been assigned a prominent place in these negotiations.

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1.March 1948

The COUNCIL FOR THE PROTECTION OF THE RIGHTS AND INTEREST OF JEWS FROM GERMANY, now called: COUNCIL OF JEWS FROM GERMANY, was founded in spring 1945 by the following organisations:

Association of Jewish Refugees in Great Britain, London
Irgun Olay Merkaz Europa, Tel Aviv
American Federation of Jews from Central Europe, New York
German Jewish Representative Committee, affiliated with the World Jewish Congress, New York.

Apart from these founder organisations, in the course of time, the following organisations joined the Council:

Comite des Israelite Refugies, (Coref), Brussels
Comite des Refugies Juifs, Paris
Fluechtlingsvertretung fuer Rueck- und Weiterwanderungsfragen, /Geneva.
Association of former Interned Jews in Italy, Milan
Emigrantenselbsthilfe, Stockholm
Association of New Citizens, Sydney, Australia
Association Democratica de Refugiados Hebreos, Habana, Cuba
Comite Uruguayo Pro Israelitas de Europe-Central, Montevideo, Urugay
Comite Representativo dos Interesses des Judeus Alemaes No Brazil, Rio de Janeiro, Brazil
Jewish Relief Association, Bombay, India
Auskunfts- und Beratungsstelle fuer Emigranten aus Deutschland, Sosua, Puerto Plata, Republica Domenica
South African Central Committee for Jewish Refugees from Central Europe, Sydenham-Johannesburg
Sociedad Cultural Israelita "B'ne Jisroel", Santiago de Chile
Nueva Comunidad Israelita, Buenos Aires, Argentine
The Council has also a keyman in Lisbon.

To-day all organisations in the world, who represent Jewish Refugees from Germany, are members of the Council.

The office of the Council was first in New York, but was transferred in autumn 1946 to London.
President of the Council is Rabbi Dr.Leo Baeck in London.
The Executive consists of two representatives each from Great Brätain, Palestine and USA.

p.t.o.

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The Council is in close cooperation with the Arbeitsgemeinschaft der Juedischen Gemeinden in Deutschland.

The first Plenary Session of the Council took place in London in June 1947; representatives of most of the member organisations attended this meeting at which also a representative of the Arbeitsgemeinschaft was present.

On the other hand, representatives of the Council attended the second Plenary Conference of the Arbeitsgemeinschaft der Juedischen Gemeinden in Deutschland in Berlin in Oktober 1947.

It is the aim of the Council to handle all problems which are the mutual problems of those Jews who emigrated from Germany under the Nazi regime. The Council represents the Jews in all matters which are beyond the scope of the activities of the individual national organisations.

One of the main tasks of the Council is the concern with the restitution problem.

The Council has submitted a memorandum to the St.Francisco Conference in which the demands of the Jews from Germany for a future peace settlement with Germany and Austria are laid down.

The Council is taking part in the discussions of the international Jewish organisations - in London and in New York - for drafting out the Jewish proposals for the peace settlement with Germany and Austria.

The Council has submitted a memorandum to the Signatory Powers of the Final Act making proposals for alterations and interpretation of the Final Act.

The Council has worked out a number of suggestions with regard to the restitution legislation and has submitted them to the appropriate quarters.

The Foreign Office German Departmentin London (formerly Control Office for Germany and Austria) has recognised the Council as the official representation of the Jews from Germany. The Council is in close contact with the German Department of the Foreign Office which consults the Council continuously in all questions regarding restitution.

On request of this department in spring 1946 the Council has established a Restitution Office in London with branch offices in many other countries. The Foreign Office has accorded official rexognition to these offices.

310460

Entry OMGUS Prop Div
File Prop Control
Box 13 390/41/10/3-4

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Authority NND 775057
By SR NARA Date 9-2-99

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At a conference which took place on January 20th 1948 at Norfolk House, London, The German Department of the Foreign Office has requested the Council to take the lead in the establishing of a Claims Agency and has promised to give this agency official recognition, after the plan has been approved by the Foreign Office.

Since summer 1946 Mr.A.Schoyer, the chairman of the British constituent member of the Council and member of the Executive of the Council is almost continuously in Berlin as the representative of the Council.

The Council is the constituent member of the American Restitution Commission and of the Jewish Cultural Reconstruction Inc. whose Vice-President is the president of the Council, Dr.Leo Baeck.

Entry OMGUS Prop Div
File Prop Control
Box 13 390/41/10/3-4

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Authority NND 775057
By SR NARA Date 9-2-99

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
AG Miscellaneous Branch
APO 742

Language: German

Date of Communication: 20 Dec 48

Translated by: IBE/an Date: 6 Jan 49

Name and address of writer:

Dr. Benno Osterberg
Stuttgart S
Stafflenbergstr. 64

To: Gen Clay

Scanning of Communication

The writer requests the extension of at least three months of Art. 56 of Law No 59.

Form OMGUS - 470-a
(30 June 48)

DECLASSIFIED
Authority NND 775057
By JW NARA Date 9-16
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RG 260
390/41/10/3,4 Bx 4
Chief Records 44-50

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
Property Division
Property Control and External Assets Branch
APO 633
Wiesbaden, Germany

11 March 1949

SUBJECT: Property Confiscated by the Former German Reich

TO : Office of Military Government for Wuerttemberg-Baden
APO 154, U. S. Army

Attn: Property Division

1. Attached is an opinion from the Legal Division, OMGUS. It will be noted that in cases where by operation of law real property was confiscated by the former German Reich, title has actually passed to the Reich, although the name of the former owner is still registered in the Grundbuch.

2. This office requests that you have your files screened for such cases, and where such properties are listed in the absentee owner categories, they be transferred to "G" categories.

3. This office requests that, after the change of category, cases where the claimant has not filed a claim under MG Law 59 be forwarded to this office. Action should be completed and a report forwarded to this office by 15 April 1949.

Stanley T. Brooks
for FRED E. HARTZSCH
Chief

1 Incl: a/s

Tel: Wiesbaden 21341
Ext. 473

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Authority NND 775057
By JW NARA Date 9-16

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COPY

1. Effect of failure to record in the Grundbuch (Land Title Register) the confiscation of real property
2. Status of confiscation made under Laws repealed by Contr Council Law No 1 and MG Law No 1.

2 PD LD 24 Jan '49

1. In your carrier sheet you request an opinion on the question whether transfer of title has been effected, although not recorded in the Grundbuch, (a) where by law or decree real property was confiscated by the former German Reich or organizations sponsored by it, and (b) where an individual secured from the record owner a bill of sale, deed, or other instrument giving color of claim to realty. You also wish our comments as to the application which the provisions of CC Law No. 1 and MG Law No. 1, declaring certain Nazi laws to be of no effect, may have on the question referred to in (a) above, including cases in which the transfer of title was recorded in the Grundbuch. In your carrier sheet of 20 December 1948 you requested us to expedite our treatment of this matter.

2. The basic rule of German law controlling transfer of title to real property is contained in para 1 of Section 873 of the German Civil Code (BGB) which in English translation reads as follows:

> "Unless otherwise prescribed by law transfer of title to real property, the creation thereon of a right in rem and the transfer of encumbrance of such right, shall be conditioned upon mutual agreement of the grantor and grantee that the respective change in the legal situation shall go into effect, and upon recordation of that change in the Grundbuch."

3. This basic rule of law, however, applies only to such dispositions of property (i.e., the creation, transfer and encumbrance of absolute rights in respect of real property) as are based on voluntary agreements (Rechtsgeschaefte). Transfer of rights, including title, to real property occasioned by operation of law, as in case of succession under Section 1922 B.G.B., or confiscation (Einziehung), and taking of land under eminent domain (Enteignung) is ordinarily (i.e. unless the law concerned requires recordation as a prerequisite) accomplished merely by service of the condemnation degree on the owner of the Land. Subsequent recordation serves no purpose other than to have the land register corrected (Grundbuchberichtigung) See Palandt, Buergerliches Gesetzbuch (6th ed.1944), p. 950; Staudinger, Kommentar zum B.G.B. and E.G. (10th ed., 1935), III Vol. p.100; Brand- Schnitzler. Die Grundbuchsachen in der Gerichtlichen Praxis, (7th ed.,1938), pp.497 et seq; Das B.G.B., Kommentar von Reichsgerichtsraeten, (Berlin, 1939), III Vol.p.36.

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Authority NND 775057
By JCW NARA Date 9-16

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Cont'd

4. The various confiscatory laws of the Nazi regime usually provided that confiscation should take effect upon service of the decree of confiscation on the person affected, or upon publication of the decree (see Section 6, Law concerning Confiscation of Communistic Property; Art. II (1) of the Ordinance to Carry out the Law concerning the Revocation of Naturalizations and Withdrawal of German Nationality of 14 July 1933, RGBl. I/480, dated 26 July 1933, RGBl. I/538; see also Brand Schnitzler, supra, ann. 10, on pp. 502-503). Recordation was not made a prerequisite for effecting the confiscation; it was, rather, merely a device to correct the Grundbuch so as to reflect the change in ownership brought about by confiscation of the land. See Second Ordinance to the Law of 9 December 1937, supra, dated 18 March 1938, RGBl. I/317. (Under the theory of the above mentioned Nazi laws confiscation did not transfer the title, but created a new title to the confiscated real property in favor of the new owner. See Pfundtner-Neubert, Das Neue Deutsche Reichsrecht, Vo. I, b. 39; Part V of introduction on page 2; also ann. 9 to Section 24 on page 15, re: Law concerning the Grant of Indemnifications in Case of Confiscation or Transfer of Property, of 9 Dec. 1937, RGBl. I/1333.)

5. It follows that transfer of title in the cases referred to in para 1a above has taken place although the name of the new record owner was not entered in the Grundbuch.

6. The cases referred to in para 1b are within the rule of Section 873 of the BGB. For lack or recordation of the legal change intended by the parties, title to the land concerned remains in the record owner.

7. Where real property was confiscated pursuant to Nazi laws repealed or declared inapplicable by Control Council or Military Government legislation, confiscation thus made have not been deprived of the legal effects described above merely by the enactment of such Control Council or Military Government legislation, since such legislation does not in general operate retroactively and, accordingly, does not, ipso jure, invalidate prior legal transactions.

FOR THE DIRECTOR:

HARRY H. MITCHELL
Deputy Chief, Legal Advice Branch

Telephone 43517

- -

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Authority NND 775057
By JW NARA Date 9-16

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COPY

Our Carrier Sheet dated 6 Nov 48, Subject: 1. Effect of failure to record in the Grundbuch (Land Title Register) the confiscation of real property:

2. Status of confiscation made under laws repealed by Control Council Law No.1 and MG Law No. 1

1	LD Legal Advice Branch	PD	20 Dec '48

It is requested that the opinion requested in subject carrier sheet be submitted as promptly as possible. The question is one of considerable importance, upon which this Division has been consulted frequently by interested persons.

PHILLIPS HAWKINS
Director

Telephone 43750

DECLASSIFIED
Authority NND 775057
By JCW NARA Date 9-16

REPRODUCED AT THE NATIONAL ARCHIVES

COPY

1. Effect of failure to record in the Grundbuch (Land Title Register) the confiscation of real property
2. Status of confiscation made under Laws repealed by Contr Council Law No 1 and MG Law No. 1

1 LD Legal Advice Branch — PD 6 Nov 1948

An opinion is requested on the following questions:

a) What is the legal effect on title, of an action on the part of the former German Reich or organizations sponsored by it, which by Law or Order declared certain property to be confiscated; but which, through oversight or for other reasons was not administratively carried out to the extent of changing the name of the record owner in the Grundbuch?

b) In whom does title rest if an individual person has secured from the record owner a bill of sale, deed, or other instrument giving color of claim to realty, but has failed to effect a change in the Grundbuch to show himself as the new record owner?

c) In view of the provisions of CC Law No 1 and MG Law No 1, barring German courts from taking step to carry out a Law which by the Control Council or Military Government has been declared to be of no effect, what is the effect of:

(i) Confiscations of property previously made under such nullified laws, when Grundbuch entries have been made to show change of ownership; and

(ii) a confiscation or taking, unaccompanied by a corresponding entry in the Grundbuch?

PHILLIPS HAWKINS
Director

Telephone 43750

310467

DECLASSIFIED
Authority NND 775057
By JGW NARA Date 9-16
REPRODUCED AT THE NATIONAL ARCHIVES

COPY

1. Effect of failure to record in the Grundbuch (Land Title Register) the confiscation of real property
2. Status of confiscation made under Laws repealed by Contr Council Law No 1 and MG Law No. 1

1 LD PD 6 Nov
Legal 1948
Advice
Branch

An opinion is requested on the following questions:

a) What is the legal effect on title, of an action on the part of the former German Reich or organizations sponsored by it, which by Law or Order declared certain property to be confiscated; but which, through oversight or for other reasons was not administratively carried out to the extent of changing the name of the record owner in the Grundbuch?

b) In whom does title rest if an individual person has secured from the record owner a bill of sale, deed, or other instrument giving color of claim to realty, but has failed to effect a change in the Grundbuch to show himself as the new record owner?

c) In view of the provisions of CC Law No 1 and MG Law No 1, barring German courts from taking step to carry out a Law which by the Control Council or Military Government has been declared to be of no effect, what is the effect of:

(i) Confiscations of property previously made under such nullified laws, when Grundbuch entries have been made to show change of ownership; and

(ii) a confiscation or taking, unaccompanied by a corresponding entry in the Grundbuch?

PHILLIPS HAWKINS
Director

Telephone 43750

DECLASSIFIED
Authority NND 775057
By JW NARA Date 9-16
REPRODUCED AT THE NATIONAL ARCHIVES

Mr. Wolfson

OFFICE OF MILITARY GOVERNMENT FOR HESSE
Property Division
APO 633 US Army

JRC/hd

Wiesbaden, Germany
4 April 1949

SUBJECT: Property Confiscated by the Former German Reich

TO: Office of Military Government for Germany (US)
APO 633, US Army
Attn: Property Division, Property Control & External Assets Branch

1. Reference your letter, 11 March 1949, our first indorsement thereto, and your letter, dated 17 March 1949, subject as above.

2. This office regrets the embarrassment encountered by persons of your office whether such embarrassment is directly traceable to this office. We had assumed that OMGUS Property Control Branch was no longer viewing its files as, usable in the light of changes made in Title 17, paragraph 22-5 and 23-2. It has not been found by us advisable to depend on these files which, prior to the changes in the aforementioned paragraphs of Title 17 were considered sufficiently up to date for authoritative use. Since, the undersigned is not aware of any communications from your office regarding the embarrassment, we are only in a position to hope further embarrassment may be avoided by reference of doubtful cases to this office for appropriate explanation by the LCAH or, if necessary, by the CAH.

3. Relative to the recategorization of the five properties referred to in paragraph 4 of your letter, dated 17 March 1949, we feel that because of the foregoing, information of this nature should be of an informative source and we will certainly appreciate being informed by your office whenever individual cases come to your attention.

4. Referring to our communication, dated 14 March 1949 we stated that information required in your letter of 11 March 1949 was not immediately available from records of a Property Control nature. To definitely determine the status of each property, it would require as a minimum an investigation of the Grundbuch, the records of vital statistics in the Standesamt, and of the Devisenstelle records. Corrections then could be made based upon information developed by these inspections in the light of the OMGUS Legal Opinion, dated

14 April 1949
Mr Hartel advised
his answer he made to this.
This problem was discussed at
LPCC meeting
WMB

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Authority NND 775057
By JCW NARA Date 9-16
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24 January 1949. In this regard the undersigned discussed the requirements of the 11 March 1949 letter with the Chief, Property Control Branch, OMGUS, on 18 March 1949 at which time a translation of a German court decision directly opposed to the OMGUS Legal Division Opinion, was tendered by the undersigned. In view of the divergence between the opinion and the decision of the court, Mr. Hartzsch announced his intention to discuss this matter in Berlin with a view to obtaining a modification of the aforementioned opinion.

5. With reference to paragraph 2 of the communication, dated 17 March 1949 we restate our request for a control symbol. Further, feeling that such control symbol will be forthcoming, we should like to be informed whether it shall be sufficient to investigate only those properties remaining in custody or whether the investigation should be extended to cover those cases previously decontrolled or released which, may also have been affected by the persecutory laws dealt with in the OMGUS Legal Opinion.

Tel: WIESBADEN 21341
Ext 366

John R Cain
JOHN R CAIN
Chief, Property Control Branch

11 APR 1949
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