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Annual Report

OFFICE OF

ALIEN PROPERTY

DEPARTMENT OF JUSTICE

FISCAL YEAR ENDED JUNE 30, 1965

324883

LETTER OF TRANSMITTAL TO THE PRESIDENT

Office of the Attorney General
Washington, D. C.

The President,
The White House, Washington, D. C.

My dear Mr. President:

I have the honor to transmit to you the Annual Report of the Office of Alien Property, Department of Justice, for the fiscal year ended June 30, 1965. Also enclosed is a draft of a letter which may be used to transmit the report to the Congress. This report is made pursuant to Section 6 of the Trading with the Enemy Act, as amended.

Respectfully,

Nicholas deB. Katzenbach
Attorney General

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LETTER OF TRANSMITTAL TO THE ATTORNEY GENERAL

Office of Alien Property
Department of Justice
Washington, D. C.

The Honorable
The Attorney General

Dear Mr. Attorney General:

I herewith present the Annual Report of the Office of Alien Property for the fiscal year ended June 30, 1965. Also enclosed is a draft of a letter the President may wish to use in transmitting the report to the Congress. This is the twenty-third annual report of proceedings under the Trading with the Enemy Act, as amended, submitted by the Office of Alien Property and its predecessor agency, the Office of Alien Property Custodian, in accordance with Section 6 of the Act.

Respectfully,

JOHN W. DOUGLAS
Director, Office of Alien Property

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ANNUAL REPORT
OF
OFFICE OF ALIEN PROPERTY
DEPARTMENT OF JUSTICE
FOR
FISCAL YEAR ENDING JUNE 30, 1965

POLICIES AND PROGRAMS

The Office of Alien Property is charged with the responsibility of completing the administration, liquidation and disposition of the remaining vested property of the United States.

To the extent possible, vested property is reduced to cash by sale or liquidation at the earliest practicable date. Pending its sale or disposition, the property is administered in the national interest in a manner designed to conserve and increase its value.

The disposition of the proceeds of the sale or liquidation of vested property has been determined by the Congress through the enactment of various amendments to the Trading with the Enemy Act. Section 32 permits return to certain non-hostile persons; Section 34 provides for the payment of debt claims to American creditors of enemy nationals; Section 39 directs the transfer of the net proceeds of all German and Japanese property to the War Claims Fund; Sections 40, 41 and 42 divest the Attorney General's interest (1) in all remainders that had not vested in possession by the end of 1961, (2) in unaccrued installments of income from estates, trusts, annuities and similar properties, and (3) in all copyrights and trademarks not previously returned or disposed of.

The processing and adjudication of title and debt claims and the prosecution and defense of lawsuits in the Federal and state courts continued to be the major duties of the Office during the year. Other important programs included the sale and liquidation of vested assets, the supervision and issuance of notices of divestment of vested interests in estates and trusts, the resolution of intercustodial conflicts pursuant to the Brussels Intercustodial Agreement, and the transfer of the unclaimed net proceeds of vested property to the Treasury Department for deposit in the War Claims Fund.

In addition to administering and disposing of property vested under the Trading with the Enemy Act, as amended, the Office administers the "Satellite Assets" program and maintains jurisdiction over certain assets in the United States of "Iron Curtain" countries and their nationals which remain subject to the blocking and licensing controls of World War II.

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VALUE OF VESTED PROPERTY

As of June 30, 1965, the cumulative total of cash receipts from vested property amounted to approximately \$862,000,000. After deductions for administrative expenses, taxes, payment of title and debt claims and cumulative total advances of \$314,250,000 to the War Claims Fund, there remained in the United States Treasury at the end of the fiscal year a balance of approximately \$217,000,000, as shown in Table 1, which follows:

TABLE 1
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

AS AT JUNE 30, 1965

CASH RECEIPTS

Cash receipts from vested property:		
Principal	\$777,424,317.51	
Income	<u>81,848,807.84</u>	\$859,273,125.35
Cash receipts from non-vested property		2,143,490.15
Expenses recovered from Satellite Assets Fund		<u>236,969.69</u>
Total Receipts		<u>\$861,653,585.19</u>

CASH DISBURSEMENTS

Transfers to War Claims Commission and its successor, Foreign Claims Settlement Commission		\$314,250,000.00
Payment of title and debt claims, Sec. 9(a) suits and compromise settlements		194,266,365.09
Administrative expenses		60,827,010.18
Direct expenses, taxes, repairs, intercustodial payments, war production royalties, etc.		73,501,876.18
Cash transferred to U.S. Treasury under Sec. 202(b) of International Claims Settlement Act		<u>1,631,870.67</u>
Total Disbursements		<u>\$644,477,122.12</u>
Balance June 30, 1965		<u>\$217,176,463.07</u>

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In addition to the cash in the U. S. Treasury, the Office was administering unliquidated property estimated to be worth about \$4,000,000. Also, through the years the Office has returned to title claimants and successful litigants unliquidated property valued at approximately \$33,000,000. Thus, the value of all property vested, including the increment thereon, reached a grand total of about \$900,000,000.

As of June 30, 1965, there still remained under the control of the Office property estimated to be worth \$221,000,000, as shown in Table 2, below:

TABLE 2

CASH AND ESTIMATED VALUE OF ASSETS ON HAND
AS OF JUNE 30, 1965

Cash	\$217,000,000
Miscellaneous properties and interests in properties.....	<u>4,000,000</u>
TOTAL	\$221,000,000

VESTED PROPERTY ACCOUNTS

Individual accounts are set up on the books of the Office in the name of the pre-vesting owner. These accounts reflect the property vested, together with the cash realized therefrom.

As cash is received, it is deposited in the U. S. Treasury in an account established for the Office and is credited on the books of the Office to the individual accounts of the pre-vesting owners.

Pursuant to the provisions of Section 39 of the Trading with the Enemy Act, as amended, the Office is required to cover into the War Claims Fund in the Treasury the cash balances in all vested German and Japanese accounts as they become free from claims and litigation.

At the time Section 39 was added to the Trading with the Enemy Act, as amended, the War Claims Commission, now the Foreign Claims Settlement Commission, was established by the War Claims Act of 1948 and authorized to make adjudications and awards on certain classes of World War II claims, primarily those of American prisoners of war and civilian internees mistreated by the enemy during their imprisonment. The administrative expenses of the War Claims Commission and the awards which the Act authorized were to be paid out of the War Claims Fund.

At the request of the War Claims Commission and the Foreign Claims Settlement Commission, the Office advanced to the War Claims Fund sums aggregating \$314,250,000. These advances were made before the administration of the German and Japanese property had been completed and were based on estimates that this amount would be recoverable from the net proceeds of German and Japanese accounts as they became free from claims and litigation.

At the end of the fiscal year, 31,262 such accounts had been closed and balances totalling some \$269,000,000 had been applied against these advances.

The remaining German and Japanese vested property is recorded in 1,100 accounts, containing cash and unliquidated property estimated to be worth about \$258,000,000. When the entire \$314,250,000 in advances has been recovered, the net balances available in the remaining accounts will then be covered directly into the War Claims Fund in the Treasury.

In addition to the German and Japanese accounts, there are some 600 accounts of other nationals with cash and unliquidated property valued at about \$7,500,000 which will be disposed of either through returns of property to eligible claimants, by transfer to the Treasury Department pursuant to Public Laws 84-285 and 87-846, or otherwise.

ADMINISTRATION AND LIQUIDATION OF VESTED PROPERTY

Vested property is liquidated or sold as soon as practicable after vesting. The general policy of the Office, however, has been not to sell patents, copyrights, trademarks and property of nationals of countries other than Germany and Japan. Furthermore, under the injunctive provisions of Section 9(a) of the Trading with the Enemy Act, the Office may not sell or liquidate vested property against which a suit for return is pending.

In fiscal year 1965 the Office collected a total of \$330,577,377.54. Of this amount \$329,141,926.49 represents the proceeds of the sale of stock of General Aniline & Film Corporation ^{1/}; \$436,551.10 was derived from vested interests in estates and trusts; \$15,141.39 from the administration and sale of real property; \$483,805.82 from the liquidation of business enterprises; \$369,704.63 from the administration and sale of miscellaneous securities; \$15,208.90 from copyright and trademark licenses and royalties; \$104,933.05 from refunds of taxes and expenses; and \$10,106.16 from miscellaneous sources.

At the end of the fiscal year some \$4,000,000 worth of miscellaneous property had not been reduced to cash. The remaining patents, copyrights

^{1/} The details of this sale are discussed at page 5 of this report.

and trademarks which have not been divested pursuant to Public Law 87-846, approved October 22, 1962 or Public Law 87-861, approved October 23, 1962, carried at a nominal value of \$1.00 each, are not included in the miscellaneous property valuations.

General Aniline & Film Corporation

During the fiscal year the Attorney General sold the vested shares of General Aniline & Film Corporation (GAF) at public sale and concurrently therewith terminated all supervision and control over the Company.

On June 4, 1964 (See Annual Report 1964) a final stipulation of settlement was entered into between "Interhandel", the plaintiff in an action for the return of the major portion of the vested shares, and the Attorney General of the United States, which terminated the litigation. This action had been preceded by a determination made by the President of the United States on January 8, 1963 in conformance with Public Law 87-846 that the interest and welfare of the United States required the sale of certain shares of common stock of GAF held by the Attorney General.

The first proof of a Registration Statement, including the Prospectus by which the Attorney General intended to offer 11,166,438 shares of the common stock of GAF for public sale, was filed with the Securities & Exchange Commission on December 1, 1964. ^{2/} This was succeeded by a press release issued by the Attorney General on December 20, 1964 announcing his intention to sell the shares of GAF held by him pursuant to competitive bidding by eligible groups of investment banking firms. Additional steps taken in connection with the sale included the revocation of the "key corporation" designation for GAF and the issuance of Special Order No. 38 directing the Company, its officers and directors to take certain actions with respect to the filing of the Registration Statement.

Prior to the filing of the Registration Statement, the stockholders of the Corporation on November 12, 1964 approved a recapitalization of the Company's stock wherein the existing Common "A" and Common "B" shares were eliminated and a new class of \$1.00 par value common stock was issued. Fifteen new shares were issued to replace each share of Common "A" stock, and 1.5 new shares were issued to replace each share of Common "B". On this basis, the Attorney General received 11,188,410 shares in exchange for 540,894 Common "A" shares and 2,050,000 Common "B" shares.

The final amended Registration Statement was filed on February 26, 1965 and on March 1, 1965 the Securities & Exchange Commission issued its order declaring the Registration Statement effective under the Securities

^{2/} 21,972 shares were withheld from sale to accommodate non-consenting stockholders of Interhandel. The ultimate proceeds of the sale of these withheld shares will accrue to Interhandel.

Act of 1933. Under the terms and conditions of the public offering the bidding was restricted to investment banking groups for reoffering to the public, with no individual being permitted to purchase more than 1,000 shares and institutional investors being held generally to a maximum of 50,000 shares.

In accordance with the terms and conditions of the offering, shortly after 10:30 a.m. on March 9, 1965, the Attorney General opened the bids for the shares. Two bids were received, one by an investment syndicate headed by Kuhn, Loeb & Co., Glore Forgan, Wm. R. Staats, Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, in the amount of \$28.2677 per share for an aggregate of \$315,649,519.46 for the total number of shares offered. The second bid was submitted by a syndicate headed by Blyth & Co., Inc. and The First Boston Corporation in the amount of \$29.476 per share for an aggregate of \$329,141,926.49. At about 11:15 a.m. on the same date the Attorney General announced the award to the bidding group represented by Blyth & Co., Inc. and The First Boston Corporation and signed an Order of Sale directing the sale of the shares to these underwriters.

The Deputy Director of the Office of Alien Property also on the same date delivered to the representatives of the underwriters a letter confirming the acceptance of the bid. On the following day the successful underwriting group reoffered the shares to the public.

Pursuant to the terms of the stipulation which settled and terminated the Interhandel litigation, the United States will retain \$208,281,419.27 out of the proceeds of sale and Interhandel will receive \$120,860,507.22.

Estates, Trusts and Insurance Contracts

When interests in estates and trusts are vested, the Attorney General succeeds to the rights of the former owners. It is the responsibility of the Office, therefore, to make certain that distribution of the assets by the administrator, executor, trustee or other fiduciary is correct and in conformity with the terms of the will, agreement, trust instrument or court decree.

Section 205, Title II, of Public Law 87-846, approved October 22, 1962, divested interests in estates, trusts, insurance contracts and similar interests which were not payable or deliverable to the Attorney General, or vested-in-possession in him, prior to December 31, 1961. The statute requires the Attorney General to give notice of divestment to former owners or custodians of the divested interests. The notice cannot be given until the files containing the facts relating to divestment are brought up to date. Each affected estate or trust must be reviewed to determine whether the interest has been retained or divested, and information respecting the named beneficiaries' criminal records must be obtained, since the statute prohibits divestment in favor of war criminals.

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During the fiscal year the Office completed its administration of the vested interests in 80 estates, trusts and insurance policies through collection and divestment. There remain 100 open interests in cases of this type.

With the \$436,551.10 received during the fiscal year from distributions and income from estates, trusts and insurance contracts, the total receipts of the Office from this category exceed \$60,000,000.

Intercustodial Disputes with Foreign Countries

During World War II the principal allied governments established programs seizing enemy assets within their jurisdictions. As a result of such seizures many jurisdictional problems involving conflicting claims to the same asset have arisen among enemy property custodians of the allied governments. In order to settle such intercustodial conflicts amicably and without litigation, the Attorney General and the Secretary of State have been jointly authorized to conclude and implement agreements between the United States and foreign governments.

Under agreements made with Canada, Denmark, the Netherlands and Norway, pursuant to Public Law 81-857 and Executive Order No. 10244 (May 17, 1951), provision was made for the division of external German assets claimed by two or more allies. The conflicts involved millions of dollars worth of property, consisting of securities issued in one allied country but physically located in another, business enterprises international in character and bank accounts involving deposits in one allied country against which the bank of deposit has set up an account in a bank in another country to cover its liability in the currency of the latter country.

At the beginning of the fiscal year, 74 conflicts were pending with foreign countries. During the year, 4 new conflicts were received, 3 reinstated and 26 settled, leaving a total of 55 conflicts to be resolved at the end of fiscal year 1965. Two of the 26 conflicts were settled pursuant to an agreement concluded with the Netherlands under which we obtained full payment of a \$600,000 claim, while the Netherlands received a claimed one-half interest, less certain expenses, in a fund of approximately \$6,000,000, vested by this Office.

Patents

More than 50,000 patents were vested during World War II. Patents granted by the United States Patent Office expire seventeen years from date of issue. As a result, a number of patents controlled by the Office expire each year. The remaining unexpired patents are a very small fraction of those originally vested.

Copyrights

As a result of an amendment to the Trading with the Enemy Act (Public Law 87-846, 76 Stat. 1115), which became effective on January 21, 1963, the rights and interests of the Attorney General in foreign-owned copyrights and pre-vesting copyright contracts were divested as a matter of grace, and rights in licenses granted by the Alien Property Custodian or the Attorney General were transferred to the persons entitled thereto. Copyright interests in certain literary works by high-ranking Nazi officials were excepted, including Mein Kampf, by Adolf Hitler; the Diaries of Paul Joseph Goebbels; Memoirs of Alfred Rosenberg; Otto Skorzeny's Secret Missions; and the extensive Photographic Collection of Heinrich Hoffmann, official photographer of the Nazi Party. Also excepted was the scientific German motion picture, Meiosis-In the Sperm Cells of the Grasshopper, psophus stridulus L, which is exclusively licensed for educational purposes until December 31, 1967.

All unpaid royalties or other income which accrued prior to the day of divestment on vested copyrights and pre-vesting copyright contracts are payable to the Attorney General. As a result, the Office has collected some \$5,571,702.03 as of June 30, 1965, of which \$13,702.03 was received during the fiscal year.

A further amendment to the Act (Public Law 87-861, 76 Stat. 1140), approved October 23, 1962, authorized and directed the Attorney General to transfer to the Library of Congress the title to (1) all vested motion picture prints in the custody of the Library of Congress and (2) subject to the right of selection by the Library of Congress, all vested prints in the custody of the Attorney General, with the exception of prints subject to suits or claims under Section 9(a) or Section 32 of the Act. All film which was out of condition and could not be stored without presenting a substantial fire hazard was destroyed. The Library of Congress, with the cooperation of the Office of Alien Property, completed its selection of prints in the custody of the Attorney General. During fiscal 1965 similar treatment was given to the films in the custody of former licensees of this Office. By the year's end title to, and possession of, an estimated 25,000,000 feet of film had been delivered to the Library of Congress, and the Office holds no more such film.

Trademarks

The trademark interests held by the Office included trademarks and trade names and the goodwill of businesses in the United States with which the marks and names have been used, registrations of trademarks in the United States Patent Office, pre-war contracts relating to trademarks, commercial prints and labels and residual and reversionary rights acquired by enemy nationals through contracts or otherwise in trademarks and trade names of American enterprises.

Pursuant to Public Law 87-861, enacted October 23, 1962, all remaining vested trademarks were divested to their former owners, except for several marks specified in the statute and which were subsequently determined to be of no value. The statute provided that to the extent that vested trademarks were originally owned by persons in what is now the Eastern Zone of Germany or the Eastern Sector of Berlin, the effective date of divestment would be that date upon which the Secretary of State certified by publication in the Federal Register that the German equivalent of the mark was now owned by a person in the Western Zone of Germany. As of June 30, 1965 no further marks remained for certification.

Royalties to date from trademark agreements outstanding at the time of vesting totalled \$2,139,884.87, of which \$1,506.87 was collected during the fiscal year.

DISPOSITION OF VESTED PROPERTIES

A very substantial part of the remaining German and Japanese property is involved in suits and proceedings in various Federal and state courts in the United States, or in administrative claims under procedures for processing and disposition which comply generally with the Administrative Procedure Act. To the extent that the Government is successful in this litigation and that administrative claims are denied, these funds will become available for transfer to the War Claims Fund.

Suits and Other Judicial Proceedings

The Office of Alien Property represented the Attorney General in judicial proceedings in various Federal courts throughout the United States during the fiscal year. These proceedings included 28 cases carried over from fiscal 1964 and 7 new cases which were filed in the courts during fiscal year 1965. Of the total of 35 cases, 16 were closed during fiscal 1965, leaving 19 cases pending at the end of the fiscal year. These figures include cases involving title to property, and the debt claims cases against pre-vesting owners of property described immediately below.

Included among the Federal court cases on July 1, 1964 were 8 complaints for review under Section 34 of the Trading with the Enemy Act pending in the United States District Court for the District of Columbia and one Section 34 complaint pending in the Supreme Court. One new Section 34 complaint for review was filed during the 1965 fiscal year. During the year the 8 Section 34 complaints for review in the District Court were terminated and the one complaint for review pending in the Supreme Court was dismissed. Thus, as of June 30, 1965, only one complaint for review was pending in the District Court.

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The Office also represented the Attorney General in 44 estates and trusts cases in various state courts throughout the United States. Thirty-nine of these cases were carried over from the previous fiscal year, 5 new cases became active and 16 cases were terminated. At June 30, 1965, there were 28 cases pending in the state courts.

Some of the most important cases in litigation during the year were: Societe Internationale, etc. (I. G. Chemie, also known as Interhandel) v. Kennedy, et al. (U.S.D.C.D.C.). This Interhandel case, which was one of the biggest and most vigorously contested cases in the history of the Department of Justice, was concluded during fiscal year 1965. Interhandel had brought suit in 1948 under Section 9(a) of the Trading with the Enemy Act to recover about 89% of the Government's holdings of about 93% of the shares of General Aniline & Film Corporation (GAF). The Government had seized the shares under the Act early in World War II on the assumption that they were the property of I. G. Farben, a large German industrial complex. The Government contested Interhandel's ownership of the shares and filed counter-claims against it for taxes owed since 1929, and for tax penalties and interest. Early in the litigation several groups of stockholders (aggregating about 2,000 stockholders) who owned shares in Interhandel sought to intervene in the litigation. They claimed that even if Interhandel were found by the court to be an enemy under Section 2 of the Trading with the Enemy Act, in which case it could not recover any property, that they were non-enemies who could recover property to the extent of their share holding interest in Interhandel. Extended litigation then ensued which brought the case several times to the United States Court of Appeals and twice to the Supreme Court of the United States. The Supreme Court approved the interventions of the Interhandel non-enemy stockholders, and in a separate proceeding remanded the case to the District Court for trial after it had been dismissed by the lower courts on account of Interhandel's failure to obtain discovery of important documents located in Switzerland.

On March 3, 1963, after extended negotiations between the parties, Attorney General Kennedy announced that agreement in principle had been reached respecting settlement of the lawsuit. The presence in the action of so many intervenors was a complicating factor which required a number of District Court hearings designed to insure that the intervenors were not adversely affected by the settlement between the major contending parties. During the course of these proceedings all of the intervenors were polled and all but about 60 of them consented to the terms of the settlement. A sufficient number of GAF shares were retained so that if any non-consenting intervenor ever obtained a judgment on his suit in intervention he would be able to receive the shares of GAF to which he claimed he was entitled. As between Interhandel and the United States a formula for settlement was arrived at which was designed to split the proceeds to be received from the sale of the GAF shares which had not been retained as property reserved for the intervenors. The settlement agreement authorized the Attorney General

to recapitalize the then existing A and B shares of GAF in order to facilitate their sale. As a result of recapitalization the former A and B shares of GAF, which had different rights and different values, were traded in for a single kind of common stock of which the Attorney General's marketable holdings totalled 11,166,438 shares.

After registration of these shares with the Securities & Exchange Commission the Attorney General offered them at open competitive bidding to eligible groups of American underwriters. See pages 5 and 6, above, for details of the sale procedure. On March 9, 1965 two bids were received and the high bid of \$29.476 per share, or an aggregate price of \$329,141,926.49 for all of the shares was accepted. On March 16, 1965 the Attorney General received the final payment of the full purchase price and delivered to the buyers the shares he had held.

Pursuant to the stipulation of settlement the United States will receive \$208,281,419.27 and Interhandel will receive \$120,860,507.22 from these proceeds. Interhandel will also be entitled to the proceeds, when it is sold, of the reserved property retained for intervenors. This reserved property consists of 21,972 shares of GAF stock and \$60,000 in cash. Also pursuant to the settlement Interhandel's share of the proceeds was deposited in the United States Treasury where it is held at interest and can be paid only by direction of the Attorney General, who has discretion to retain sufficient funds to satisfy certain potential indemnity obligations imposed upon Interhandel. By the end of the fiscal year \$60,000,000 had been paid to Interhandel and a balance somewhat in excess of that amount still remains in the Treasury.

On March 25, 1965 the Attorney General paid to the Internal Revenue Service \$17,500,000 from the Government's share of the proceeds on account of the taxes, penalties and interest which had been asserted in the counterclaims in the lawsuit. On April 19, 1965 a praecipe of dismissal was filed which dismissed Interhandel's complaint and the Government's various counterclaims. On April 23, 1965 the Special Master to whom the Interhandel case had been assigned in the District Court dismissed the last 16 of the non-consenting intervenor claims which remained in the lawsuit. The time for appeal from the dismissal of all claims in the lawsuit has expired and the litigation is closed.

Honda, et al. v. Katzenbach; Okamoto, et al. v. Katzenbach; and Kondo, et al. v. Katzenbach, Civil Actions Nos. 1179-64, 1591-64 and 1630-64, respectively (U.S.D.C.D.C.). These class actions were commenced by several thousand holders of yen certificates of deposit for the purpose of obtaining payments totalling approximately \$20,000,000 on their certificates from available funds of the Yokohama Specie Bank which total about \$10,000,000 and which were vested under the Trading with the Enemy Act. The administrative claims of nearly all of these plaintiffs were dismissed on the ground of abandonment when they failed to submit the original certificates of deposit upon which their claims were based, as they had been

requested to do by the Office of Alien Property. None of the plaintiffs had timely filed complaints for review in accordance with the requirements of Section 34(f) of the Act and, therefore, they were not included in the compromise settlement of Abe, et al. v. Kennedy (U.S.D.C.D.C.) involving similar claims.

This litigation was opposed by the Office of Alien Property on jurisdictional grounds under Section 34(f) of the Act, which seems to impose an absolute bar on the litigation of these claims at this late date. Plaintiffs contended, however, that the Government is estopped from asserting Section 34(f) as a bar since the dismissal of their claims because of their failure to submit their certificates of deposit was unreasonable; and since in most instances such failure was allegedly caused by the representation of the Office of Alien Property that their claims could be paid only at the postwar rate of exchange for the yen, a rate substantially less than the compromise rate. The position of the Government was sustained by the District Court by entry of an order on March 31, 1965 dismissing the complaint on jurisdictional grounds. At the end of the fiscal year the case was pending on plaintiffs' appeal to the Court of Appeals for the District of Columbia.

Samuel Schindler Fonds v. Nicholas deB. Katzenbach, Civil Action No. 865-64 (D.C.D.C.). This was a suit brought by a Swiss family foundation for return of vested property valued at \$51,006.03. The Foundation held legal title to the vested property for the benefit of a class of persons described in its charter. The only remaining beneficiaries were German nationals who were ineligible for a return. The Government took the position that under Swiss law the German beneficiaries were the equitable owners of the vested property and that, therefore, return could not be made to the Swiss Foundation. The Foundation contended that under Swiss law and the charter of the Foundation the rights of the beneficiaries did not add up to equitable ownership and that, in any event, the Government was bound by the finding of the Swiss Compensation Office limiting the extent of enemy interest to 7.5% of the Foundation assets. The claim (No. 62133) which the Foundation had filed was dismissed administratively, whereupon the Foundation brought suit in the United States District Court under Section 9(a) of the Trading with the Enemy Act. Since the case involved difficult questions of Swiss law on which the Swiss courts have not as yet spoken, the Government entered into a 50-50 settlement of the case which fairly represented its risks in litigation.

Frank Petschek et al. v. Katzenbach, Civil Action No. 3676-59 (D.C.D.C.). This was a complaint for review under Section 34(f) of the Trading with the Enemy Act of a decision of the Director disallowing plaintiffs' debt claim against the vested property of the German Government. The claim (No. 37191) in the amount of \$10,646,000 was based upon ownership of certain non-interest bearing Reichsmark Treasury certificates issued by the Nazi Government. It was dismissed administratively on the ground that there

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s no debt due and owing to the claimants since no conversion rate had been fixed for these bonds by legislation of the Federal Republic of Germany. Plaintiffs contended that the repudiation of these obligations by the present German Government could not apply to assets of the former German Government vested by the United States, and that they were entitled to convert the Reichsmark face amounts of the certificates into dollars at the pre-war rate of \$.040 per Reichsmark, which would amount to \$10,646,000, plus damage interest from the date of maturity. However, they agreed to settle the litigation on the basis of the conversion rate of 10 Reichsmarks to 1 Deutsche Mark which the present German Government has fixed for interest-bearing Treasury certificates, plus post-maturity interest only from January 1, 1947 (when property of German nationals was unblocked) and not from the earlier dates when the obligations were defaulted. The Government agreed to a settlement in the amount of \$1,163,615.56.

Alfred Bockli, Eduard Caflisch and Oscar Stutz as Trustees of Henkel & Cie A.G. Konsortial-Fonds (Claims Nos. 6843 and 45899); Henkel & Cie A.G. Konsortial-Fonds (Claim No. 40962); Henkel & Cie A.G. of Basel, Switzerland (Claims Nos. 41486 and 45892); Uma A.G. of Chur, Switzerland (Claim No. 5893). These six closely related matters involve approximately \$17,000,000 vested by the Attorney General under the Trading with the Enemy Act. In 1947 and 1948 two of the claimants commenced suit pursuant to Section 9(a) of the Act in the United States District Court. These suits were dismissed with prejudice. There is still time within which to file Section 9(a) actions with respect to several of the other claims. All claimants now seek an administrative determination of their claims.

Henkel & Cie G.m.b.H. of Dusseldorf is perhaps Europe's largest producer of soaps, detergents and related chemicals with numerous subsidiary corporations located throughout the world. Prior to World War II, control of the Henkel enterprises outside of Germany was concentrated in the hands of Uma A.G. of Chur, Switzerland, a corporation established and controlled by Henkel of Dusseldorf. Uma, in turn, controlled Henkel A.G. of Basel, Switzerland, and Henkel & Cie A.G. Konsortial Fonds. At the time of vesting, the property in question was held in the names of Henkel & Cie of Basel and Henkel & Cie Konsortial-Fonds.

The basic issue presented is whether Henkel of Basel is eligible for a return under Section 32(a)(2)(E) of the Act, which bars a return to a foreign corporation which after December 7, 1941, was controlled, or 50% or more owned, by an enemy. The Claims Unit contends that Henkel of Dusseldorf did control both Uma and Henkel of Basel and that despite a pro-forma sale of Uma stock prior to World War II, Henkel of Dusseldorf did retain ownership of more than 50% of Uma stock throughout World War II. The claimants have denied these contentions. Proposals for the settlement of this complicated group of claims are under consideration.

Von Clemm, et al. v. Kennedy (U.S.D.C. S.D.N.Y.). This proceeding was brought under Section 9(a) of the Trading with the Enemy Act. Plaintiffs are an American citizen and a partnership engaged in importing transactions, principally importing diamonds and semi-precious and synthetic stones from Europe. Plaintiffs are suing under the Trading with the Enemy Act for approximately 1-1/2 million dollars realized by the Government from the seized property. In 1942, the plaintiff von Clemm was convicted of conspiracy to violate the Presidential freeze order relating to Belgium and the Netherlands. Principal questions in the case are whether plaintiffs' activities were such as to render them ineligible to sue under the Trading with the Enemy Act. Also involved are questions as to the pre-vesting ownership of the vested property. Various individuals have intervened as parties defendant, under the principle established in Kaufman v. Societe Internationale, 343 U.S. 156. The case was tried by July 1, 1964 and had been submitted on briefs by November of that year. The court's decision had not been rendered by the end of the fiscal year.

Roboz & Vincze v. Kennedy (U.S.D.C.D.C.). This is an action arising under the International Claims Settlement Act of 1949 involving \$492,000 seized by the Attorney General of the United States as property of the Hungarian Government. The plaintiffs are a woman and her son, both being American citizens who were in Hungary at the outbreak of World War II. They allege the property was the property of the woman's husband, a deceased Hungarian national. The Attorney General maintains the property was the property of the Hungarian Government.

The plaintiffs scheduled numerous depositions in Europe to be taken in July of 1965, and the parties stipulated that the case could then be tried at the earliest possible time in the fall of 1965.

Administrative Claims

The administrative return of vested property is authorized by Section 32 of the Trading with the Enemy Act, as amended. Generally speaking, vested property can be returned to non-enemy governments, citizens of allied and neutral countries not voluntarily resident in enemy countries during the war period, corporations of non-hostile countries that are not enemy controlled, certain American citizens regardless of their residence during the war, enemy citizens who continuously resided outside enemy or enemy-occupied territory since December 7, 1941 and who were not engaged in business in such territory, victims of enemy persecution who would otherwise be ineligible because of enemy citizenship or residence in enemy territory and the government, nationals and residents of Italy who were previously ineligible because of their earlier enemy status.

Section 34 permits the payment of certain debt claims to creditors of the former enemy owners of vested property. Such creditors must be citizens of the United States or the Philippine Islands or residents of this country

since December 7, 1941. Debt claims against property subject to a title claim or Section 9 suit are not generally paid until the title claim or suit has been terminated. Upon the allowance of a title claim under Section 32 to a non-resident or to a foreign corporation, notice of intention to return must be published in the Federal Register at least 30 days prior to making the return. During this period, creditors of title claimants may attach the property.

As of June 30, 1965 there had been filed with the Office of Alien Property a total of 67,556 claims of which 19,872 were title claims and 47,684 were debt claims. At the start of the 1965 fiscal year, there remained to be processed 388 title claims and 16 debt claims. Of the 388 title claims, 127 were Kaufman-type intervenor claims corresponding to the interventions in the lawsuit involving the General Aniline & Film Corporation stock. The total amount of cash and appraisable property returned or paid under the title claims program and under Section 9(a) of the Trading with the Enemy Act has now reached the sum of \$212,630,000, as shown in Table 3, below. This total includes cash payments of about \$179,630,000 and appraisable property valued at about \$33,000,000.

The Office processed 209 title claims during the 1965 fiscal year, which resulted in a return to former owners of \$123,330,000 in cash, plus various interests in property of unappraisable nature, such as tangible personal property. The remaining 127 Kaufman-type intervenor claims were closed by dismissals or withdrawals during the fiscal year.

The return program under the Austrian Assets Agreement of January 30, 1959, which became effective on May 19, 1964, was completed during fiscal 1965. The Agreement authorized the return of vested property determined to be Austrian owned within one year from the effective date of the Agreement. A total of 131 claims, including representative claims on behalf of Austrian composers and authors for the return of their interests in copyright royalty funds, were allowed under the Agreement for the return of \$714,289.98 to 235 individual claimants.

During fiscal 1965, 4 debt claims were disposed of administratively. Of these, one which was allowed in part is subject to a complaint for review filed in the United States District Court for the District of Columbia under Section 34(f) of the Act. The remaining 3 debt claims for services rendered, severance pay and employee bonuses, totalling \$4,703.58, were withdrawn. During the fiscal year, a Final Schedule and a Payment Order were issued for the payment of one allowed debt claim in the amount of \$281.30 from the vested assets of the Rhine-Westphalia Electric Power Co.

Table 3, which follows, shows the value of all property vested on which a valuation has been placed and the disposition of property no longer under the control of the Office.

324901

TABLE 3

DISPOSITION OF VESTED PROPERTY

Total vested property including value at date of vesting plus appreciation.....	\$899,000,000
LESS:	
Property returned to non-hostile persons.....	\$212,630,000
Debt claims paid.....	13,460,000
Funds transferred to War Claims Fund.....	314,250,000
Funds transferred to the Treasury	
Department pursuant to Lombardo and Reverse Lend-Lease Agreements	1,410,000
Settlements pursuant to Private Laws	358,000
Funds transferred into Treasury under Section 202(b) of Public Law 285.....	732,000
Funds divested and covered into Treasury or paid direct to individuals under Section 202(b) of Public Law 285	1,045,000
Cash and other property transferred to foreign governments per intercustodial agreements.....	15,200,000
Direct expenses not allocated to specific types of property.....	58,000,000
Conservatory and administrative expenses.....	60,915,000
Total Deductions	<u>\$678,000,000</u>
Property remaining June 30, 1965.....	\$221,000,000

SATELLITE ASSETS PROGRAM UNDER PUBLIC LAW 285

Section 202(b) of Title II of the International Claims Settlement Act of 1949, as amended, provided for the divesting of property which was vested after December 17, 1941, pursuant to the Trading with the Enemy Act, as amended, and which at the date of vesting was owned directly by natural persons who were nationals of Bulgaria, Hungary or Rumania. Since the beginning of the program, the Office has issued 838 divesting orders whereby a total of more than \$1,000,000 has been divested into blocked accounts in the Treasury or paid directly to former owners.

Pursuant to Section 202(a) of Title II of the International Claims Settlement Act the Office had issued, as of June 30, 1965, 292 vesting

orders with a value of \$26,672,316, as follows:

	<u>Number of Vesting Orders</u>	<u>Value of Assets Vested</u>
Bulgaria	39	\$ 2,645,960
Hungary	140	2,786,501
Rumania	104	21,189,144
Unknown nationals of Bulgaria, Hungary and Rumania	<u>9</u>	<u>50,711</u>
Total	292	\$ 26,672,316

Pursuant to Sections 202(a) and (b) of the Act, the following funds have been covered into the Treasury representing the net proceeds of vested Bulgarian, Hungarian and Rumanian assets to be used to pay eligible American claimants as provided under Title III of the Act:

Bulgarian Claims Fund	\$ 2,589,853
Hungarian Claims Fund	1,478,342
Rumanian Claims Fund	<u>21,048,176</u>
Total	\$ 25,116,371

Additional funds will be covered into the Treasury as they become available.

FOREIGN FUNDS CONTROL

The operation of the foreign funds control program was transferred to the Office of Alien Property from the Treasury Department in 1948. The purpose of the program, which is a part of the foreign policy of the United States, is to deny money or property to persons in countries behind the Iron Curtain which have refused to make financial settlements with Americans who suffered damage because of the war or because of the nationalization of property in these countries.

On this basis, the World War II blocking controls under Executive Order No. 8389, as amended, are continued over the wartime assets of Iron Curtain countries and their nationals. These controls are maintained over the World War II blocked property of (1) Hungary and persons in that country on January 1, 1945; (2) Czechoslovakia, Estonia, Latvia and Lithuania and persons in any of those countries on December 7, 1945; and (3) Eastern Germany and the Eastern Sector of Berlin and persons in those areas on December 31, 1946. In general, property acquired by these countries and their nationals after these dates is not blocked.

324903

Since this program relates to property that was owned by persons in blocked territory during World War II, many of the original owners have died and the property has become payable to their heirs, distributees or legatees. This, therefore, has become in a sense a claims program; that is, the persons claiming the funds when they are unblocked must submit proof of their eligibility, which is a twofold requirement based on their permanent residence at the time they make their claim, and upon their ownership of the funds. The question of ownership may involve an interpretation of the law of descent and distribution of the country in which the decedent was domiciled.

At the end of the fiscal year, there were approximately 636 blocked accounts in the Treasury Department belonging to nationals of Bulgaria and Rumania (whose property has been unblocked) and nationals of still-blocked Hungary. These accounts contain a total of over \$566,000. In addition to the blocked accounts held in the Department of the Treasury, there are many other blocked accounts deposited in banking institutions and public depositories (such as county treasuries), and with corporations in cases in which stock and accrued dividends are owned by persons in blocked territory.

Until the presently blocked countries are unblocked, the Office will continue to license the payment of limited amounts to persons in blocked territory for living expenses. In addition, the Office licenses to the governments in exile of each of the Baltic countries, Estonia, Latvia and Lithuania, an amount sufficient to defray the expenses of the diplomatic missions of each government in exile throughout the world. These amounts average about \$100,000 per year for each country.

ORGANIZATION

As of June 30, 1965, the Office of Alien Property employed 15 attorneys and 27 clerical and other personnel.

The Office of Alien Property is located at 101 Indiana Avenue, N. W., Washington, D. C. 20530.

FINANCES AND ACCOUNTING

The administrative expenses incurred in carrying out the functions of the Office of Alien Property are paid out of vested assets and not from appropriated funds. The amount that may be expended each year, however, is fixed by Congress by annual authorization. Direct expenses arising from the administration of specific vested properties are not included in this general limitation.

The Comptroller's Unit maintains all accounting records and performs all auditing functions pertaining to properties vested and properties turned

324904

over to this Office for custody and safekeeping, handles all tax matters relating to vested property, deposits for collection with the Treasurer of the United States currency, checks or drafts paid to or received by the Office, transfers the proceeds to the Treasury of the United States, and arranges for the payment by check of all expenses of and claims against the Office.

The regular authorization by the Congress for general administrative expenses for the fiscal year 1965 was in the amount of \$690,000 (Public Law 88-527, approved August 31, 1964).

Administrative expenses for the 1965 fiscal year totalled \$669,673.66.

The report of Peat, Marwick, Mitchell & Co., certified public accountants, on the audit of the books of the Office for the fiscal year ended June 30, 1965, follows:

ACCOUNTANTS' REPORT

Peat, Marwick, Mitchell & Co.
1730 M Street, N. W.
Washington, D.C. 20036

Mr. John W. Douglas
Assistant Attorney General, Civil Division
Director of Office of Alien Property
Department of Justice, Washington, D. C.

We have examined the accounts maintained by the Comptroller's Unit of the Office of Alien Property for the purpose of controlling vested assets and recording accountability therefor for the year ended June 30, 1965, but we did not review the financial and statistical information and statements which will be contained in the detailed annual report of the Office of Alien Property for such year. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. Such examination included count of securities and personal property on hand in the Washington, D. C. office of the Office of Alien Property; test-confirmation of vested assets in the custody of others at June 30, 1965; test-check and confirmation of recorded cash receipts; test-examination of vouchers covering administrative expenses and other disbursements; confirmation of balances with the United States Treasury Department and other depositories; and review of procedures followed in the sale, return or other disposition of vested assets during the fiscal year as to compliance with the policies set forth in regulations governing such disposals.

324905

The accounting records of all of the vested enterprises in process of liquidation were maintained by the Office of Alien Property. We reviewed the available accounting records of enterprises so maintained. Our review included check of the reconciliations and confirmation of bank balances in the United States, count or confirmation of securities held in the United States, and review of disposals of assets (other than sales made in the regular course of business) during the fiscal year; but we did not audit the accounts of such enterprises.

In our opinion, the individual exceptions disclosed as a result of our examination for the year ended June 30, 1965 are not regarded as relatively significant.

/s/ Peat, Marwick, Mitchell & Co.

February 16, 1966

324906

EXHIBIT "A"

STATEMENT OF ADMINISTRATIVE EXPENSES AND MEANS OF FINANCING
FOR THE PERIOD APRIL 21, 1942 TO JUNE 30, 1965

Based on administrative expenses and revenues as
recorded on the books at June 30, 1965

	April 21, 1942 to June 30, 1961	July 1, 1961 to June 30, 1962	July 1, 1962 to June 30, 1963	July 1, 1963 to June 30, 1964	July 1, 1964 to June 30, 1965	TOTAL
<u>ADMINISTRATIVE EXPENSES</u>						
Personal Services	\$51,064,168.31	\$ 423,638.11	\$ 516,371.87	\$ 530,914.68	\$ 531,536.72	\$53,066,629.69
Travel	1,173,229.06	13,494.71	16,637.92	9,049.10	10,584.20	1,222,994.99
Transportation of things	137,220.20	- 0 -	467.25	- 0 -	- 0 -	137,687.45
Communication services	723,095.71	2,893.12	3,345.94	2,784.60	3,088.45	735,207.82
Rents and Utilities	3,746,644.89	18,325.11	20,889.28	26,064.73	23,370.72	3,835,294.43
Printing and Binding	668,812.29	4,885.96	1,236.23	1,027.75	865.05	676,827.28
Other contractual services	3,304,986.07	67,940.79	70,073.28	67,714.71	61,769.98	3,572,484.83
Supplies and materials	612,338.56	173.66	1,289.61	883.88	354.58	614,440.29
Equipment	567,571.37	2,503.77	2,967.35	629.70	- 0 -	573,672.19
Refunds, awards and indemnities	4,640.00	- 0 -	- 0 -	- 0 -	- 0 -	4,640.00
F.I.C.A. contributions	16,558.54	- 0 -	525.23	412.03	32.32	17,528.12
Grants, subsidies and contributions	381,331.03	29,494.16	33,788.74	38,222.28	38,071.64	520,907.85
Total Expenses	\$62,400,595.73	\$ 563,349.32	\$ 667,592.70	\$ 677,203.46	\$ 669,673.66	\$64,978,314.94
<u>MEANS OF FINANCING</u>						
<u>Administrative Revenues and Recoveries</u>						
Recoveries of expenses from vested enterprises and other properties received under periodical republication program	\$ 481,542.27	\$ 12,861.09	\$ 10,027.69	\$ 16,601.63	\$ 16,991.57	\$ 538,024.25
Reimbursement of expenses incurred for representing persons residing behind enemy lines in court or administrative proceedings, vested under Section 5 of Executive Order 9193	239,229.81	(- 0 -)	(- 0 -)	(- 0 -)	(- 0 -)	239,229.81
World War I administrative deductions and expenses recovered	344,097.20	- 0 -	(655.71)	(133.00)	(286.00)	343,022.49
License fees and sales of patent catalogs and abstracts	216,800.79	- 0 -	- 0 -	- 0 -	- 0 -	216,800.79
Philippine vested property expenses to October 13, 1946 recovered from Philippine Alien Property Administration	378,488.14	405.00	365.00	45.00	45.00	379,348.14
Administrative expense subsequent to June 29, 1951 recovered from Philippine Vested Property Fund	124,214.14	- 0 -	- 0 -	- 0 -	- 0 -	124,214.14
Conservatory and administrative expenses recovered from vested accounts upon payment of claims and transfers of free account balances to War Claims Fund and to the Bulgarian, Hungarian and Rumanian Claims Funds	61,601.98	- 0 -	- 0 -	- 0 -	- 0 -	61,601.98
Expenses charged to Vested Satellite Assets Fund	59,443,408.90	(2,118,515.40)	648,732.84	953,761.69	1,051,877.87	59,979,265.90
Miscellaneous receipts	236,969.69	- 0 -	- 0 -	- 0 -	- 0 -	236,969.69
Total Revenues and Recoveries	\$61,678,260.61	(2,099,232.22)	\$ 673,583.20	\$1,034,286.11	\$1,075,617.04	\$62,362,514.74
World War I Administrative Expense Fund made available by Executive Order 9142	4,063,088.71	- 0 -	- 0 -	- 0 -	- 0 -	4,063,088.71
World War II Vested Property Fund	(3,340,753.52)	2,662,581.61	(5,990.50)	(357,182.65)	(405,943.38)	(1,447,288.51)
Total	\$62,400,595.73	\$ 563,349.32	\$ 667,592.70	\$ 677,203.46	\$ 669,673.66	\$64,978,314.94

() Denotes Red Figure

EXHIBIT B

INFORMATION REQUIRED BY PUBLIC LAW 859^{1/}

Claims Filed as of June 30, 1965

Claim No.	Date of Filing	Claimant's Name	Enemy Nationality	Book Valuation
44708	5-6-49	Shuichi Kawaoka	Japanese	\$ 29,461.48
			Subtotal	\$ 29,461.48
			Total as of June 30, 1964	\$ <u>8,528,249.17</u>
			Total as of June 30, 1965	\$ 8,557,710.65

Claims Allowed as of June 30, 1965

Claim No.	Date of Filing	Claimant's Name	Enemy Nationality	Book Valuation
44708	5-6-49	Shuichi Kawaoka	Japanese	\$ 29,461.48
			Subtotal	\$ 29,461.48
			Total as of June 30, 1964	\$ <u>5,086,054.76</u>
			Total as of June 30, 1965	\$ 5,115,516.24

^{1/} 81st Cong., 2d Sess., approved September 29, 1950; 64 Stat. 1080, 50 U.S.C. App. Sec. 32 Public Law 378, 82d Cong., 2d Sess., approved June 6, 1952 (66 Stat. 129, 50 U.S.C. App. Sec. 32), amended Public Law 859 by raising the value of returnable property in total under Public Law 859 from \$5,000,000 to \$9,000,000 and by defining the term "value" as the value, at the time of vesting, of the property entered on the books of the Office of Alien Property.

324908