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By EP NARA Date 3/7/00RG 59
Entry AI-5347 OFFICE
File OAP General II
Box 3

329877

EMBASSY
OF THE POLISH PEOPLE'S REPUBLIC
WASHINGTON, D.C.

Full of Name
LIPUM 8/1/63

The Charge d'Affaires ad interim of the Polish People's Republic presents his compliments to the Secretary of State and has the honor to refer to the Agreement between the Government of the Polish People's Republic and the Government of the United States of America regarding claims of nationals of the United States signed on July 16, 1960, and in particular, to Article VI of this Agreement, as well as to direct attention to Paragraph I of the Record of Positions, as taken by the United States and the Polish Delegations in negotiations during the month of July 1960 regarding the unblocking of Polish assets in the United States.

Immediately after July 26, 1960, when the United States revoked the regulations blocking the remaining Polish assets in America, the Polish Government through its agent, the National Bank of Poland, availed itself of all possible measures at its disposal to inform the public of Poland of said revocation. Hence,

In the Summer of 1960

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In the Summer and Fall of that year, the unblocking of Polish assets in the United States was given extensive publicity through the medium of the Polish press which carried frequent and detailed announcements of this new regulation in all their Warsaw and provincial editions. Also, frequent announcements by radio were undertaken in order to acquaint Polish citizens with the unblocking of these assets. As a result of these prolonged efforts exerted by the National Bank of Poland, many claims were filed with the Bank. However, upon close examination, it was found that most constituted claims to estates whose transfer to Poland had been denied by certain courts in America, particularly those in the states of New York and Pennsylvania. The number of claims filed affecting Polish property blocked by the Federal regulations of 1941 was negligible--not exceeding a total of \$30,000. This sum does not include \$26,612 representing the claim of the former British-Polish Trade Bank, or the sum of \$30,767.31 representing Polish interest in the liquidation of the Austro-Hungarian Bank. This sum total is by no means comparable to the aggregate amount as specified by the United States Delegation.

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States Delegation which, according to the Office of Alien

Property, comes to approximately \$1,250,000.

Considering that in 1947-48 the National Bank of Poland,

acting on behalf of the Polish Government, collected assets

unblocked under General Licenses Nos. 95 and 97 amounting to

approximately \$1,424,000; and further, that the response to

the widespread publicity given to the unblocking of the remaining

assets in the United States was negligible, it is self evident

that the vast majority of Polish assets in the United States

which had not been claimed in 1947-48, and which continued to be

blocked until July 26, 1960, belonged to Polish citizens who were

either killed or reported missing in World War II and whose heirs

are not cognizant of their legal rights. Some may have been the

property of Polish enterprises whose documents and records were

destroyed during the war.

These circumstances were brought out strongly and emphasized

by the Polish Delegation during the 1960 negotiations. Also, the

Polish Delegation at that time requested a list of the Polish

assets in question in order that it might enable the rightful heirs

to claim

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to claim their property. The United States Delegation declined to comply with this request. It did, however, express its willingness to discuss the problem with a view to finding means to assist such persons.

Bearing in mind the fact that more than one and a half years have elapsed since the signing of the Agreement and that the Polish Government does not see any possibility of implementing the provisions of the Agreement in the future without the assistance of the United States Government, it is hereby requested that discussions between the Polish Embassy and the Department of State be undertaken at a mutually agreeable time with the hope that some course of action will be found which will eventually give the provisions of Article VI of the Claims Agreement not only a formal but a practical interpretation.

The Charge d'Affaires ad interim of the Polish People's Republic takes this occasion to renew to the Secretary of State the assurances of his highest consideration.

Embassy of the Polish People's Republic

Washington, April 2, 1962

No. 259/62

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L/EUR
FBI WASH D.C. sub
OAS Memorandum
M.D.
M.P.

July 23, 1963

LEGAL MEMORANDUM: Circular 175: Agreement with Germany to provide for extension of time for fulfilling conditions and formalities under U.S. copyright laws.

A Circular 175 request is being submitted by E - Mr. Johnson to the Secretary requesting authorization to exchange notes with Germany on the basis of which there would be permitted by Proclamation the extension of time for the fulfillment of the conditions and formalities required under copyright law.

Under Public Law 87-646 effective January 21, 1963 most copyrights seized by the U. S. Government under the Trading with the Enemy Act and owned by Germans were automatically divested and returned to their former owners.

Under Section 9(b) of Title 17 of the U.S.C. copyright owners or proprietors of works first produced or published abroad who have been prevented from complying with certain conditions or formalities because of the disruption or suspension of facilities may be granted an extension of time for the fulfillment of such conditions or formalities if, they are nationals of countries which accord substantially equal treatment to copyright owners or proprietors who are citizens of the United States. The note to be received from the German Government would establish that the conditions of reciprocity do in fact exist. This note would refer, *inter alia*, to Article 2 of Law No. 8, entitled Industrial, Literary and Artistic Property Rights of Foreign Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, by which provision was made for the restoration of literary property rights in Germany owned by United States nationals at the beginning of the war or during the war and the extension of such rights for ten years. Reference would also be made to letters exchanged in 1950 between the Federal Republic of Germany and the United States High Commissioner which established that reciprocal copyright relations continued in effect between the FRG and the U. S. of America.

It is considered that Section 9(b) of Title 17 provides adequate legal authority for the proposed exchange of notes, and the proclamation to extend the time for the fulfilling conditions and formalities under U.S. copyright laws.

Ely Maurer
Assistant Legal Adviser
for European Affairs

cc: L - Mr. Chayes
L/T - Mr. Devans

L:J/SUR:EMaurer:mj
7/23/63

L/T

L/S

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4/EUR - Mr. Trippel

TO : The Secretary
THROUGH: S/S
FROM : R - Mr. Johnson
SUBJECT: Copyright Proclamation Regarding Germany

In accordance with Department Circular 175, authorization to negotiate and sign ~~(propose)~~ an exchange of notes with the German Embassy as the basis for a Presidential Proclamation granting to German authors and composers, who were prevented by the war or related matters from either filing for copyright or renewing existing copyrights, an extension of time for fulfillment of the requirements of United States Copyright Law. ~~Draft notes to be exchanged (Tabs A and B) and~~ A draft Presidential Proclamation ~~are~~ IS attached (Tab A).

The German Embassy in a note of April 18, 1963 (Tab B) asked for consideration of this matter in view of the enactment of Public Law 87-846, effective January 21, 1963, which ~~permitted the~~ ^{automatically} divesting or return ⁱⁿ to their former owners, or successors' interest, ~~of~~ most copyrights of former enemy nations seized by the Government under World War II powers. The copyright interests specifically exempted from return were mostly the works of a few high Nazi officials, as for example, Hitler's "Mein Kampf". No monetary return in the form of compensation or accumulated royalties is involved.

The Department and the Copyright Office--the two principal agencies --
~~concerned at this time~~ agree that a proclamation for extension of time would be desirable. Section 9(b) of the United States Copyright Law (Title 17,

U.S. Code)

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regular 1751 Agreement with Germany
extension of time for formalities

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*Subject of
negotiations
substantially*

U.S. Code) authorizes the President to grant such extensions, ~~on a~~
~~quasi judicial~~
~~reciprocal basis~~, whenever authors or copyright proprietors have been unable to comply with the formalities of law because of disruption or suspension of facilities essential for such compliance. The notes to be exchanged would establish that the conditions of reciprocity required by law in fact exist.

Recommendation

It is requested that you authorize the negotiation of notes with the German Embassy as the basis for the issuance Presidential Proclamation on this matter, and that you delegate to the Assistant Secretary for European Affairs, or his Deputy, authority to conclude such an exchange of notes.

*with the concurrence of
E, L, and Copyright Office*

Concurrences

OP	SUR	L/E	L/EPR	L/T
ME	H	Copyright Office		

Levy

Attachment:

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OT: JF: NJWinter: T Czajkowski: fms
6/17/63

Approved _____

Disapproved _____

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OF LEGAL ADVISER
File OAP General III

Article 175: Agreement with extension of time for fulfilling U.S.

DEPARTMENT OF STATE REFERENCE SLIP				DATE
NAME OR TITLE	ORGAN, SYMBOL	ROOM NO., BLDG.	INITIALS	DATE
1. MR. J. TRIPPE	L/EJR	5417		
2.				
3.				
4.				
5.				
<input checked="" type="checkbox"/> APPROVAL	NOTE AND FORWARD			
AS REQUESTED	NOTE AND RETURN			
COMMENT	PER CONVERSATION			
<input checked="" type="checkbox"/> FOR YOUR INFORMATION	PREPARE REPLY			
INITIAL FOR CLEARANCE	SEE ME			
NECESSARY ACTION	SIGNATURE			
REMARKS OR ADDITIONAL ROUTING				
<p>Please call me if OK. T.C.</p>				
FROM (NAME AND ORGANIZATION)			ROOM NO. AND BLDG.	
T.CZAJKOWSKI			OT/BP 3827 N/S	
SIGNATURE			PHONE NO.	
			2656-14775	

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Circular 175: Agree
extension of time for fulfilling conditions
under U.S. copy-

Draft by G Com

COPYRIGHT AGREEMENT: GERMANY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the President is authorized, in accordance with the conditions prescribed in section 9 of title 17 of the United States Code, which includes the provisions of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of September 25, 1941, 55 Stat. 732, to grant an extension of time for fulfillment of the conditions and formalities prescribed by the copyright laws of the United States of America, with respect to works first produced or published outside the United States of America and subject to copyright or to renewal or copyright under the laws of the United States of America, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

WHEREAS, pursuant to Article 2 of the Law No. 6, entitled Industrial, Literary and Artistic Property Rights of Foreign Nationals, promulgated by the Allied High Commission for Germany on October 29, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were confiscated, seized, requisitioned, removed or otherwise disposed by the Germans, whether legislative,

warranted by Law No. 31 promulgated by U. S. C. lot 21, 1950

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jurisdiction over foreign countries, which were deemed to be restricted to
to send United States officials or his Agent anywhere, and
therefore, according to section 4(a) of the Treaty
with the Soviet Union as amended by article 10 of the Convention
of October 22, 1922, 25 June, 1923, all diplomatic, military or
consular missions to Germany, and to those of
Russia, Germany being then under Russian dominion and vested in
the Allies Powers, exception of the Attorney General under the
provisions of the said Treaty, the Treaty Act, as passed except for
a compensation for
were prohibited to a number of persons and the persons qualified
therefor, and on January 22, 1923, passed by the Senate
and House of Representatives, and on such conditions
submitted to the House of Commons, and passed, and the United
States Government notified in the said Treaty, and
therefore, by virtue of an instruction by the President
of the United States of America dated May 25, 1922, to Secy. 2271,
citizens of Germany were entitled to the benefits of the act
of December 26, 1907, 37 Stat. 1075, as amended
by the act of November 26, 1920, 41 Stat. 529, including the
benefits set forth in the new amendment (title 27 of the
said act of 1920), and
therefore, statements made subsequent to 1920 between
the Government of the United States of America and the
Government of Germany, and

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cc: [unclear] by G Conn

interpreting the reciprocal copyright relations contained
in effect between the Federal Republic of Germany and the
United States of America.

THE GOVERNMENT, i.e., JOHN F. KENNEDY, President of
the United States of America, whereupon by virtue of the
authority vested in me by the aforementioned title IV, do declare
and proclaim:

That with respect to (1) works of citizens of the
Federal Republic of Germany which were first produced or
published outside the United States of America on or after
September 3, 1953, and subject to copyright under the laws of
the United States of America, and (2) works of citizens of the
Federal Republic of Germany subject to renewal of copyright
under the laws of the United States of America on or after
September 3, 1953, there has existed such duration of pro-
tection of their rights equivalent to compliance with the conditions
and formalities prescribed with respect to such works by the
copyright laws of the Federal Republic of Germany, so to bring such
works within the scope of section 9 (a) of the aforesaid
title IV, and that, accordingly, the time within which compliance
with such conditions and formalities may take place is hereby
extended with respect to such works for one year after the date
of this proclamation.

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It shall be understood that the term of copyright
in any case is not and cannot be altered or affected by this
proclamation, and that, as provided by the aforesaid title 17,
MEMO:
no liability shall attach under the said title for lawful uses
made by some done prior to the effective date of this proclamation
than in connection with the above-described works, or in respect
to the continuance for one year subsequent to such date of any
business undertaking or enterprise lawfully entered into prior
to such date involving a voluntary or contractual obligation in
connection with the exhibition, production, reproduction,
circulation or performance of any such works.

IN WITNESS WHEREOF, I have hereunto set my hand and
caused the seal of the United States of America to be affixed.

BELIEVE IN THE CITY OF Washington this day

of , in the year

of our Lord nineteen hundred and
sixty-three and of the Independence
of the United States of America
the one hundred and eighty-eighth.

By the President

Secretary of State

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OT/BP:TCzajkowski:skz

6/18/63

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TIC
INCO 11-3 US-GernUNCLASSIFIEDDEPARTMENT OF STATEMEMORANDUM OF CONVERSATION

May 6, 1963

SUBJECT: Presidential Extension-of-Time Copyright Proclamation
for German Nationals

PARTICIPANTS: Mr. George Cary, Deputy Register, Copyright Office
 Mr. Andrew Stalder, EUR/GER
 Mr. Allan I. Mendelsohn, L/E
 Mr. Jerry C. Trippe, L/EUR
 Mr. Harvey J. Winter, OT/BP
 Mr. Theodore Czajkowski, OT/BP

COPIES TO: OT-Mr. Nichols
 EUR/GER-Mr. Stalder
 L/E-Mr. Mendelsohn
 L/EUR-Mr. Trippe
 L/EUR-Mr. Maurer
 L/T-Mr. Bevans
 L/E-Mr. Lowenfeld
 BP (2)
 U.S. Mission Berlin

Copyright Office-Mr. Cary
 Amembassy Bonn (2)
 Amconsul Bremen
 Amconsul Dusseldorf
 Amconsul Frankfurt
 Amconsul Hamburg
 Amconsul Munich
 Amconsul Stuttgart

BACKGROUND

BP arranged this meeting because of the divestment of former German-owned United States copyrights under Public Law 87-846 of October 22, 1962, effective on January 21, 1963, and a note of April 18, 1963 to the Department of State from the German Embassy, wherein the Embassy requested the Department to consider favorably the issuance of a Presidential proclamation granting an extension of time for the performance of certain United States copyright formalities by German nationals.

The particular

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The particular point of a Presidential Proclamation would be to permit German nationals to perform the required procedural formalities whereby their United States-copyrightable works could be brought under the protection of United States copyright, (according to the United States copyright statute, for an original term of twenty-eight years or a second twenty-eight year renewal term), which they were unable to do during World War II. This matter was first raised informally in April 1955 by officials of the German Government during a visit to the United States Copyright Office, and later officially by the German Embassy in a note of August 21, 1959. The response in each instance was that inasmuch as ownership of the overwhelming majority of former German-owned United States copyrights on works of German origin was vested in the Attorney General of the United States (previously in the Alien Property Custodian) any present consideration for such a proclamation was premature. In reply to the German Embassy's note, it was pointed out that legislation providing for a return (divestment) of such German copyright interests had been proposed in the United States Congress, and should such proposals result in legislation that effected a return of those copyright interests to their former owners, the United States Government could then appropriately consider the practicality of a Presidential proclamation (the only method under the Copyright statute) to grant such an extension of time as a matter of grace to permit the retroactive compliance with legal formalities necessary to attain United States copyright protection.

MEETING

In opening the meeting Mr. Winter pointed out that before any action could be taken on the German Embassy's note of April 18, 1963, the State Department would first have to comply with the requirements of its Circular No. 175 and obtain the Secretary's authorization for an exchange of notes with the German Embassy as a basis for the necessary Presidential proclamation.

Mr. Cary then explained some of the mechanics and technical details involved. There was general agreement among all participants that it was proper to effect the issuance of the requested proclamation. As regards the question whether vested copyrights would be returned to nationals of the

East German Zone

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East German Zone, Mr. Cary explained that the Public Law did not attempt to deny a "return" to East German nationals as, he thought, was the case with respect to vested trademarks /See P. L. 87-861 of October 23, 1962./ The Attorney General had submitted a report to the Congress with his first proposal for divestment legislation, which pointed out the fact that most German book and music publishers originally in the East Zone had managed to move to the West Zone of Germany. Mr. Cary reminded the group that the Department of State (albeit tacitly) had for some years sanctioned the registration by the Copyright Office of claims to United States copyright filed by East German nationals. Such registrations were accepted on the theory that the East German Zone was part of the German nation "proclaimed" (as entitled to the benefits of the United States copyright statute) in 1922.

The group then considered what effective date could be accepted as the starting point of any period during which German nationals were unable for one reason or another to comply with the formalities necessary to effect United States copyright protection. There was general agreement on the date of September 3, 1939, i. e. the outbreak of hostilities in World War II. Mr. Czajkowski mentioned that because of earlier German monetary and other governmental controls an earlier date might be considered. However, it was felt that an earlier date could not be justified since the controls were imposed by a sovereign government on its own people.

The "cut-off" date was next considered. The general agreement was that the proposed Presidential proclamation should, of course, cover all copyrightable works up through the date of divestment, i. e. January 21, 1963, and it was further agreed that as a practical matter it would be proper to include all claims (to United States copyright) that were filed up to the date of the issuance of the proclamation and during the one-year period of grace thereafter.

No participant could see any particular problem with respect to this matter.

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DEPARTMENT OF STATE REFERENCE SLIP		DATE		
NAME OR TITLE	ORGAN. SYMBOL	ROOM NO. BLDG.	INITIALS	DATE
1. Mr. Peter Pfund	L/EUR	5417	NB	
2. Mr. Ely Maurer				
3.				
4.				
5.				
APPROVAL		NOTE AND FORWARD		
AS REQUESTED		NOTE AND RETURN		
COMMENT		PER CONVERSATION		
FOR YOUR INFORMATION		PREPARE REPLY		
INITIAL FOR CLEARANCE		SEE ME		
NECESSARY ACTION		SIGNATURE		
REMARKS OR ADDITIONAL ROUTING				
GPO 939117				

We will be calling you soon about
a meeting to discuss this matter.

US Copy Act Section 9(b)

Section 41(a) of PL 87-846

Oct 1962

Draft will be forthcoming

FROM (NAME AND ORGANIZATION)	ROOM NO. AND BLDG.
OT:BP	3827 NB
SIGNATURE	PHONE NO.
Harvey J. Winter	2859

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Draft by G Com

Welle, Inter. Offr Rk 38³ Room 3827
 at 3:00 PM
 Monday, 5/6

ACTION
 is assigned to

EMBASSY

OF THE

FEDERAL REPUBLIC OF GERMANY
 WASHINGTON, D.C.

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 DEPARTMENT OF STATE

1963 APR 19 AM 11:51

ANALYSIS & DISTRIBUTION
 BRANCH

Received by
 hand April 18, 1963
 HEVA AG Bureau
 MAULER

2nd to Mr. LEVIN
 LPT for
 action

The Embassy of the Federal Republic of Germany presents its compliments to the Department of State, and has the honor to refer to the previous exchange of Notes between this Embassy and the Department of State, mainly to the Department's Note dated October 7, 1959, 862A.173/8-2159, concerning the issuance of a proclamation of the President of the United States, extending the time for the fulfillment of renewal formalities required by the U.S. Copyright Law, in favor of German nationals.

The Department's Note pointed out that it would be preferable to await the enactment of U.S. legislation divesting German copyrights before considering the issuance of an extension-of-time proclamation.

This Embassy would like to draw the Department's attention to Public Law 87-846, enacted in October 1962, which in its Section 41(c) divested the German copyrights, effective January 21, 1963.

The Embassy, therefore, would appreciate the opinion of the Department of State whether the U.S. Government would favorably consider a proclamation of the President of the United States in accordance with Section 9(b) of the U.S. Copyright Act at the present time.

Washington, D.C., April 18, 1963

RK 506-80.01

MICROFILM CENTER

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Box 3

September 20, 1962

H
OAP claims

Dear Stephen:

You will recall that you wrote to me on July 23 to enquire whether anything could be done on behalf of Mrs. Dora Head, a British national whose pre-World War II German bonds were vested in October 1948 by the Office of Alien Property, U. S. Department of Justice. In accordance with your request, we wrote to that Office, indicating *inter alia* that these assets might have been vested in error, and requesting that consideration be given to undertaking such remedial action as might be possible. The reply of the Officer of Alien Property is quoted below in full:

"Reference is made to your letter dated July 27, 1962 in which you suggest that securities of Mrs. Dora Head vested under Vesting Order No. 12248, executed on October 27, 1948, should be returned because she was not aware of the seizure and thus could not have timely filed a claim for the return of her property.

Congress by the enactment of Section 33 of the Trading with the Enemy Act, as amended (50 U.S.C. App. 33), limited the time for filing claims for the return of vested property to February 9, 1955 or two years from the date of vesting whichever was later. This Office has consistently maintained the position that it has no authority to waive or extend the statutory period for the filing of claims notwithstanding compelling circumstances to do so. Mrs. Head did not timely file a claim with this Office for the return of her securities vested under Vesting Order No. 12248. Accordingly, I regret to advise you that such property may not be released under existing legislation."

The time limit within which claims had to be filed was extended at least twice, by Congressional action, and I believe that your Embassy's cooperation was sought in publicizing these

Mr. L. J.

deadlines

Mr. Stephen J. L. Oliver, M.B.E.,
H.M. Consul General,
British Embassy,
Washington, D. C.

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deadlines. As the date of the final deadline was almost ten years after the end of the war, I would judge that a further extension, which would require legislative action in any case, is unlikely.

Sincerely yours,

Alf S. Bergesen

cc: L/EMR - Mr. Maurer ✓

EUR:BNA:AEBergesen:lc

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OAP General II

In reply refer to
 L/S 611.66231/6-2761

AUGUST 21 1961

Dear Mr. Charge d'Affaires:

This is in response to your informal letter of June 27, 1961 requesting information concerning the general degree of proof of persecution required by the Office of Alien Property, Department of Justice, in order to return assets vested pursuant to the provisions of the Trading with the Enemy Act.

Under United States practice, Section 32(a)(2)(D) of the Trading with the Enemy Act (50 U.S.C. App. 32) authorizes the return of vested property to an individual who was a citizen or subject of and present in Germany, Japan, Hungary or Rumania on and after December 7, 1941 and prior to March 8, 1946 and who "as a consequence of any law, decree, or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial, or religious groups has at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated, enjoyed full rights of citizenship under the law of such nation."**

The Office of Alien Property has informed the Department that in general to establish eligibility for the return of vested property under the provisions of Section 32(a)(2)(D) of the Act, a claimant must identify the law, decree, or regulation upon which he relies and establish by clear and convincing evidence that such law, decree

or

The Honorable,
 S. Y. Lee,
 Charge d'Affaires a. i. of Canada,
 Canadian Embassy,
 1746 Massachusetts Ave., N. W.,
 Washington 6, D. C.

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or regulation was discriminatory, that he was a member of the political, racial or religious group subjected to discrimination and further that he did not enjoy preferential treatment. Such evidence usually consists of certified copies of original documents, if available, and affidavits of the claimant and disinterested persons. Evidence submitted by any claimant is subject to investigation by our representative in Germany if the circumstances warrant.

According to the Office of Alien Property, relatively few claims were filed by Romanians and Hungarian persecutees and therefore their experience in this area is somewhat limited. However, the Office of Alien Property has informed us that several Jewish claimants have alleged persecution under Hungarian and Romanian discriminatory laws. Such laws have been identified by claimants and the Office of Alien Property has concluded on the basis of these laws and the opinions of foreign law experts that Jews were subject to severe discrimination under the law of both of these countries. Accordingly, claims have been allowed where the claimants have established by genealogical evidence such as birth certificates, baptismal and other church records or affidavits that they were Jewish within the meaning of that term as defined in the laws and where they have established by notarized statements of their activities in those countries during the war that they did not enjoy preferential treatment. Apart from corroborative statements under oath by disinterested persons, the Office of Alien Property has had no means in either Romania or Hungary of confirming statements of claimants.

We hope this information will be of some assistance to you.

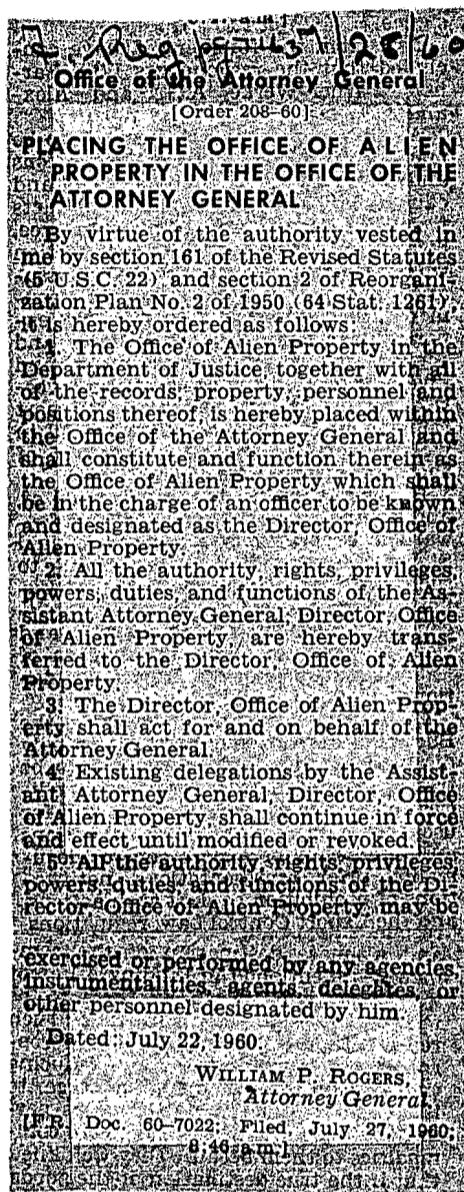
Sincerely yours,

Walter Hollis
 Acting Assistant
 Legal Adviser
 for Economic Affairs

L:L/E:JFeinberg:mj
 8/1/61

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Authority XND009020
By EP NARA Date 3/7/80RG 59
AI-5347 OFFICE
Entry of legal advisor
File OAP General II
Box 3

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Authority XND00920
By EP NARA Date 3/7/00

RG 59
AI-5347 Office
Entry of legal advisor
File OAP General
Box 3

DEPARTMENT OF STATE

JULY 2, 1954

FOR THE PRESS

NO. 361

CAUTION - FUTURE RELEASE

HOLD FOR DELIVERY EXPECTED AT 2:00 P.M., E.D.T., FRIDAY,
JULY 2, 1954. NOT TO BE PREVIOUSLY PUBLISHED,
QUOTED FROM, OR USED IN ANY WAY.

STATEMENT BY
 THE HONORABLE JOHN FOSTER DULLES
 SECRETARY OF STATE
 BEFORE A SUBCOMMITTEE OF THE SENATE JUDICIARY
 COMMITTEE CONCERNING S. 3423, TO AMEND THE
 TRADING WITH THE ENEMY ACT, FRIDAY, JULY 2.
 (Attached is a letter of July 1 from Secretary
 Dulles to Senator Everett M. Dirksen on the
 same subject)

Mr. Chairman, Members of the Committee:

I am happy to have an opportunity to discuss with the Committee the question of the status of former German and Japanese property raised by S. 3423. I think it is appropriate that the Congress should review legislative policy in this field. The seizure and disposition of enemy property was made during and immediately after the war, when feelings were influenced by the events of that period. I think it is useful to have a fresh look at what is being done in the light of changing world circumstances and experience in administering the legislation.

The Department has submitted a letter to the Committee commenting on questions of general principle raised by the bill. I do not wish to go into the matter in detail, but I would like to comment on a few of the aspects of the question.

The policy adopted after World War II of completely eliminating ownership of enemy private property was a departure from historic American policy after other wars. I myself have had some experience in this field, since I worked on these problems in connection with the Treaty of Versailles. I would, frankly, like to see a return to our historic position to the extent that may be possible, although I appreciate that to do so involves considerable difficulties after so long a period of years.

As

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PR 361

As I have stated in my letter to the Committee, there is no objection from a foreign policy viewpoint to the return as a matter of grace of vested German property or of Japanese property. In point of fact, any action of this character would be welcomed, both by the governments of the Federal Republic of Germany and of Japan, as an indication of a return to more normal relations, and of course by the owners of the property. I personally feel sympathy for the burdens placed on large numbers of people who had small property holdings in this country representing interests in estates and trusts, from small investments or pensions, life insurance policies, etc. When I last saw Chancellor Adenauer, after the Berlin Conference, he particularly mentioned this subject to me and pointed out the hardship which our vesting had caused in these cases.

One aspect of the problem to be considered is the status of war claims still outstanding, principally in the form of claims of American citizens against Germany for war damage to property.

Because of the great dislocation of the German economy as a result of the war, the Allied countries decided to look to the German assets in their territories as a principal source for the payment of their claims against Germany. If this approach is to be reversed, the question of unsatisfied claims against Germany would call for consideration.

The situation with respect to Japan is somewhat different, in that we have a peace treaty with Japan, in which there has been provision for the payment of certain claims against Japan and a definitive waiver of the balance.

This is a complicated problem which involves many policy aspects. A good deal of money has already been disbursed and appropriations would be required. Some of these are matters which go beyond the province of the State Department. Insofar as the problem involves matters of foreign policy, I would have no hesitation in recommending adoption of legislation along the general lines of this bill.

July 1, 1954

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By ED	Entry of legal advisor
NARA Date 3/7/80	File OAP General
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PR 361

July 1, 1954

Dear Senator Dirksen:

I refer to your letter of May 10, 1954 requesting my comments on S. 3423, a bill to amend the Trading with the Enemy Act. This bill would in substance provide for the return, as a matter of grace, of assets vested from nationals of enemy countries, or the liquidated proceeds thereof. The benefits of the Act would not apply to persons convicted of war crimes nor to persons resident in the Soviet zones of occupation of Germany and Austria, or in Albania, Bulgaria, China, Czechoslovakia, Hungary, Poland, Rumania or the Soviet Union.

Pursuant to the Trading with the Enemy Act, as amended, the assets of the governments and nationals of Germany and Japan, and certain assets of the government and nationals of Italy were vested in the United States. Assets of the governments and nationals of Rumania, Hungary and Bulgaria, with which the United States was also at war, were in general not vested, but were placed under control. Return of vested Italian assets was authorized by the Congress at the time that an agreement was executed between the United States and Italy (dated August 14, 1947), which provided for the settlement of various problems arising out of the war, including claims against Italy of American nationals. Claims of American nationals against Rumania, Bulgaria and Hungary, arising out of the war or out of nationalization of property have not been settled. Recommendations regarding these claims and the assets of those countries in the United States are being sent to the Congress separately by the Bureau of the Budget.

In view of the above, I will confine my comments in this letter to the vested German and Japanese assets. Although nearly all assets in the United States of the governments and nationals of these countries have been vested, only part of them have been liquidated. Exact values are difficult to estimate, but the Department understands that approximately \$60 million of property have been vested as being of Japanese ownership and \$450 million as being of German ownership. The finding of enemy ownership has been contested in the case of important properties of substantial value, and the total amount of money which may ultimately be realized from the vesting program is uncertain. However, \$225 million of enemy assets have been liquidated and authorized for payment or paid into the War Claims fund pursuant to existing legislation.

Under the War Claims Act of 1948, Congress has provided for the payment of certain types of claims arising out of the war, principally those for personal injury of prisoners of war and civilian internees. Other war claims have been studied

by the

The Honorable
 Everett McKinley Dirksen,
 United States Senate.

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By EP	Entry of legal advisor
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PR 361

by the War Claims Commission and are dealt with in the two reports of the Commission of May 3, 1950 and January 16, 1953, which have been submitted to the Congress. The claims which have thus far been authorized to be paid have been predominantly against Japan, although as is obvious from the relative magnitude of the assets vested from Japan and Germany, the source of funds has been predominantly German in origin. In fact, the total claims which are estimated to be payable under the War Claims Act of 1948 against Japan (\$130 million) greatly exceed the total value of vested Japanese assets. It follows that German assets have been used to an important extent for the payment of claims against Japan and that any further claims to be paid from the War Claims fund would be almost exclusively from this source.

In addition to the bill to which I have referred, a number of other bills have been introduced in the Congress, some of which would provide for the return of particular categories of German and Japanese assets, while others would provide for the payment of particular categories of claims from the War Claims fund. These bills therefore all represent alternative uses of the funds remaining in the possession of the Government as a result of the vesting of German and Japanese assets. The Department believes that it would be appropriate for the Congress to review the question of the disposition of these assets as a whole and to lay down a general policy with respect to the disposition of these assets. In this connection, it desires to submit the following general comments.

There are no foreign policy objections to the return of former enemy assets, or the proceeds of their liquidation, as proposed in S.3423. Any return which the Congress may see fit to make of assets vested from private individuals and corporations would be consistent with the respect which the United States has traditionally accorded to private property as a general policy and with the practice which has been followed after other wars. The return of such assets would of course be welcomed by the countries concerned. However, it appears from the terms of S.3423 and from the fact that a significant amount of assets has already been liquidated and disposed of that appropriations would be required to implement the policy proposed in the bill. The amount of appropriations required either from a complete return of German and Japanese assets or for any measure of partial return has not been estimated. In the circumstances, the Department does not feel that it is in a position to endorse any specific proposal for return at this time.

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PR 361

In adopting a policy on this subject, the Congress should take into account the fact that there are unsatisfied claims of American nationals against Germany and Japan. The nature of these claims is indicated in the reports of the War Claims Commission. In this connection, the Department wishes to go on record as being firmly opposed to any further use of former German assets for the purpose of satisfying claims against countries other than Germany.

If the Congress should see fit to provide for a partial rather than full return of vested properties or their proceeds, the Department believes that preference should be given to small property holdings, which would particularly benefit individuals who had life insurance policies, pensions, interests in estates, social security benefits, bank accounts and real property holdings and would spread the benefits of a return widely among the former owners of the assets.

Regardless of what policy is followed with respect to vested assets in general, the Department believes that the return of vested trademarks and copyrights is particularly desirable. At the request of the Department, the Office of Alien Property on December 19, 1952 released from blocking German and Japanese trademarks which had not previously been vested. However, it continues to hold about 400 vested trademarks and 500,000 vested copyrights which cannot be released without new enabling legislation. Particularly in the case of Germany, the trademarks are important to export trade with the United States, and return of copyrights would eliminate a point of friction in our cultural relations.

With respect to governmental property, which is excluded from the scope of the bill, it may be noted that American practice prior to World War II has been to respect property of a diplomatic character. The Treaty of Peace with Japan specifically excepts diplomatic and consular property from the right of seizure of Japanese assets granted to the Allied powers. In this connection, the Department is aware of the fact that a bill, S.1573, has recently been passed by the Senate which would provide for the payment of \$300,000 to the Federal Republic of Germany for the construction of a new Embassy in Washington in lieu of the former German Embassy which has been vested and sold. It should also be noted that in the case of Italy previous legislation providing for the return of Italian assets did not exclude governmental property from the return. (It may in fact, be necessary to reconcile the provisions of this bill with such previous legislation.)

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By	EP
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 Entry of legal advisor
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PR 361

In the event that the Congress should see fit to provide for return of German and Japanese assets, it may be appropriate to work out some of the terms and conditions with the governments of the Federal Republic and of Japan. Negotiations would also probably be required with other governments with which the United States has concluded agreements for the resolution of inter-custodial conflicts. There are various other practical and technical problems involved in a policy of return, a number of which are raised by the bill under reference. The Department believes that these aspects of the question can be best considered once a general policy is determined and would be pleased to submit its comments on them at a later date.

I am sending a similar letter to Senator Langer, Chairman of the Committee on the Judiciary, who has also requested my comments.

I have been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

JOHN FOSTER DULLES

* * *

State--FD, Wash., D.C.

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By ED NARA Date 3/7/00RG 59
A1-5347 OFFICE
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File OAP General
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DEPARTMENT OF STATE

JULY 2, 1954

FOR THE PRESS

NO. 361

CAUTION - FUTURE RELEASE

HOLD FOR DELIVERY EXPECTED AT 2:00 P.M., E.D.T., FRIDAY,
JULY 2, 1954. NOT TO BE PREVIOUSLY PUBLISHED,
QUOTED FROM, OR USED IN ANY WAY.

STATEMENT BY
 THE HONORABLE JOHN FOSTER DULLES
 SECRETARY OF STATE
 BEFORE A SUBCOMMITTEE OF THE SENATE JUDICIARY
 COMMITTEE CONCERNING S. 3423, TO AMEND THE
 TRADING WITH THE ENEMY ACT, FRIDAY, JULY 2.
 (Attached is a letter of July 1 from Secretary
 Dulles to Senator Everett M. Dirksen on the
 same subject)

Mr. Chairman, Members of the Committee:

I am happy to have an opportunity to discuss with the Committee the question of the status of former German and Japanese property raised by S.3423. I think it is appropriate that the Congress should review legislative policy in this field. The seizure and disposition of enemy property was made during and immediately after the war, when feelings were influenced by the events of that period. I think it is useful to have a fresh look at what is being done in the light of changing world circumstances and experience in administering the legislation.

The Department has submitted a letter to the Committee commenting on questions of general principle raised by the bill. I do not wish to go into the matter in detail, but I would like to comment on a few of the aspects of the question.

The policy adopted after World War II of completely eliminating ownership of enemy private property was a departure from historic American policy after other wars. I myself have had some experience in this field, since I worked on these problems in connection with the Treaty of Versailles. I would, frankly, like to see a return to our historic position to the extent that may be possible, although I appreciate that to do so involves considerable difficulties after so long a period of years.

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By EP NARA Date 3/7/00

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PR 361

As I have stated in my letter to the Committee, there is no objection from a foreign policy viewpoint to the return as a matter of grace of vested German property or of Japanese property. In point of fact, any action of this character would be welcomed, both by the governments of the Federal Republic of Germany and of Japan, as an indication of a return to more normal relations, and of course by the owners of the property. I personally feel sympathy for the burdens placed on large numbers of people who had small property holdings in this country representing interests in estates and trusts, from small investments or pensions, life insurance policies, etc. When I last saw Chancellor Adenauer, after the Berlin Conference, he particularly mentioned this subject to me and pointed out the hardship which our vesting had caused in these cases.

One aspect of the problem to be considered is the status of war claims still outstanding, principally in the form of claims of American citizens against Germany for war damage to property.

Because of the great dislocation of the German economy as a result of the war, the Allied countries decided to look to the German assets in their territories as a principal source for the payment of their claims against Germany. If this approach is to be reversed, the question of unsatisfied claims against Germany would call for consideration.

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July 1, 1954

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Authority XIND009020
By EP NARA Date 3/7/00RG 59
AI-5347 OFFICE
Entry of legal advisor
File OPP General
Box 3

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PR 361

July 1, 1954

Dear Senator Dirksen:

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United States Senate.

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PR 361

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PR 361

In adopting a policy on this subject, the Congress should take into account the fact that there are unsatisfied claims of American nationals against Germany and Japan. The nature of these claims is indicated in the reports of the War Claims Commission. In this connection, the Department wishes to go on record as being firmly opposed to any further use of former German assets for the purpose of satisfying claims against countries other than Germany.

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Regardless of what policy is followed with respect to vested assets in general, the Department believes that the return of vested trademarks and copyrights is particularly desirable. At the request of the Department, the Office of Alien Property on December 19, 1952 released from blocking German and Japanese trademarks which had not previously been vested. However, it continues to hold about 400 vested trademarks and 500,000 vested copyrights which cannot be released without new enabling legislation. Particularly in the case of Germany, the trademarks are important to export trade with the United States, and return of copyrights would eliminate a point of friction in our cultural relations.

With respect to governmental property, which is excluded from the scope of the bill, it may be noted that American practice prior to World War II has been to respect property of a diplomatic character. The Treaty of Peace with Japan specifically excepts diplomatic and consular property from the right of seizure of Japanese assets granted to the Allied powers. In this connection, the Department is aware of the fact that a bill, S.1573, has recently been passed by the Senate which would provide for the payment of \$300,000 to the Federal Republic of Germany for the construction of a new Embassy in Washington in lieu of the former German Embassy which has been vested and sold. It should also be noted that in the case of Italy previous legislation providing for the return of Italian assets did not exclude governmental property from the return. (It may in fact, be necessary to reconcile the provisions of this bill with such previous legislation.)

In

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Authority By EP: NARA Date 3/7/80	Entry OF LEGAL ADVISOR
	File OAP GENERAL
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PR 361

In the event that the Congress should see fit to provide for return of German and Japanese assets, it may be appropriate to work out some of the terms and conditions with the governments of the Federal Republic and of Japan. Negotiations would also probably be required with other governments with which the United States has concluded agreements for the resolution of inter-custodial conflicts. There are various other practical and technical problems involved in a policy of return, a number of which are raised by the bill under reference. The Department believes that these aspects of the question can be best considered once a general policy is determined and would be pleased to submit its comments on them at a later date.

I am sending a similar letter to Senator Langer, Chairman of the Committee on the Judiciary, who has also requested my comments.

I have been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

JOHN FOSTER DULLES

State--FD, Wash., D.C.

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Authority XND009020
By EP NARA Date 3/7/00

RG 59

AI-5347 OFFICE
Entry of legal advisor
File OAP General

Box 3

1 p.m.
6/12/42Assistant Secretary
of State

EXECUTIVE ORDER

JUN 13 1942

MR. ACHESON

AMENDING EXECUTIVE ORDER NO. 9095
 ESTABLISHING THE OFFICE OF ALIEN
 PROPERTY CUSTODIAN AND DEFINING ITS
 FUNCTIONS AND DUTIES AND RELATED MATTERS.

By virtue of the authority vested in me by the Constitution, by the Trading with the enemy Act of October 6, 1917, as amended by the First War Powers Act, 1941, and as President of the United States, it is hereby ordered as follows:

Executive Order No. 9095 of March 11, 1942, is amended to read as follows:

1. There is hereby established in the Office for Emergency Management of the Executive Office of the President the Office of Alien Property Custodian, at the head of which shall be an Alien Property Custodian appointed by the President. The Alien Property Custodian shall receive compensation at such rate as the President shall approve and in addition shall be entitled to actual and necessary transportation, subsistence, and other expenses incidental to the performance of his duties. Within the limitation of such funds as may be made available for that purpose, the Alien Property Custodian may appoint assistants and other

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Authority

By EP

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Entry of legal advisor

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personnel and delegate to them such functions as he may deem necessary to carry out the provisions of this Executive Order.

2. The Alien Property Custodian is authorized and empowered to take such action as he deems necessary in the national interest, including the power to vest, direct, manage, supervise or control, with respect to:

- (a) any business enterprise within the United States which is a national of a designated enemy country and any property of or interest in any such business enterprise;
- (b) any other business enterprise within the United States which is a national of a foreign country and any property of or interest in any such business enterprise, if the Alien Property Custodian certifies that, notwithstanding the licensing controls over such enterprise under Executive Order No. 8389, as amended, it is necessary in the national interest for such enterprise to be supervised, managed or vested by the Alien Property Custodian, and such certification shall be published in the Federal Register and a copy of such certification shall be furnished to the Secretary of the Treasury;
- (c) any other property within the United States owned or controlled by a designated enemy country or national thereof, not including, however, cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchange and securities, except insofar as they are owned or controlled by, or are evidence of ownership or control of, any business enterprise which is a national of a designated enemy country;
- (d) any patent, trademark or copyright or any interest therein, in which any foreign country or national thereof has an interest; and
- (e) any ship or vessel or interest therein, in which any foreign country or national thereof has an interest.

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When the Alien Property Custodian exercises any power and authority conferred upon him by this section with respect to any of the foregoing property over which the Secretary of the Treasury is exercising any control and so notifies the Secretary of the Treasury in writing, the Secretary of the Treasury shall release all control of such property, except as authorized or directed by the Alien Property Custodian.

3. The Secretary of the Treasury and the Alien Property Custodian each shall make available to the other all information in their respective files and will keep each other currently informed as to investigations being conducted with respect to enemy ownership or control of business enterprises within the United States.

4. The Alien Property Custodian is authorized to issue appropriate regulations governing the service of process or notice upon any person within any enemy country or any enemy-occupied territory in connection with any court or administrative action or proceeding within the United States and the Alien Property Custodian is authorized to take such other and further measures in connection with representing any such person in any such action or proceeding as in his judgment and discretion is or may be in the interest of the United States. If, as a result of any such action or proceeding, any such person obtains, or is determined to have, an interest in any property, such property, less the expenses incurred by the Alien Property Custodian in such action or

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Entry of legal advisor
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- 4 -

proceeding, shall be subject to the provisions of Executive Order No. 8389, as amended, provided, however, that this shall not be deemed to limit the powers of the Alien Property Custodian under section 2 of this Order. Nothing herein shall be deemed to modify the provisions of section 5 of Executive Order No. 9142 of April 21, 1942.

5. To the extent necessary for the Alien Property Custodian to carry out his functions under sections 2, 3, and 4 of this Executive Order, there are hereby delegated to the Alien Property Custodian or any person, agency, or instrumentality designated by him all powers and authority conferred upon me by section 5(b) of the Trading with the enemy Act, as amended, including the power to make such investigations and require such reports as he deems necessary or appropriate to determine whether any enterprise or property should be subject to his jurisdiction and control under this Executive Order.

6. In the exercise of the authority herein delegated, the Alien Property Custodian shall be subject to the provisions of Executive Order No. 8839 of July 30, 1941, and shall designate a representative to the Board of Economic Warfare in accordance with section 6 thereof.

7. Executive Order No. 8389, as amended, is hereby amended by the addition of the following new subdivision to section 2 thereof:

"C. Subject to the provisions of Executive Order No. 9095, as amended, all power and

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authority, except the power to vest, conferred upon me by sections 3(a) and 5(b) of the Trading with the enemy Act, as amended, are hereby delegated to the Secretary of the Treasury or any person, agency or instrumentality designated by him."

Except as otherwise provided herein, this Executive Order shall not be deemed to modify or amend Executive Order No. 8389, as amended, and the regulations, rulings, licenses and other action taken thereunder, or in connection therewith.

8. This Executive Order shall not be deemed to modify or amend Executive Order No. 8843 of August 9, 1941, and the regulations, rulings, licenses and other action taken thereunder. Any and all action heretofore taken by the Secretary of the Treasury or the Alien Property Custodian, or by any person, agency or instrumentality designated by either of them, pursuant to sections 3(a) and 5(b) of the Trading with the enemy Act, as amended, and any and all action heretofore taken by the Board of Governors of the Federal Reserve System pursuant to Executive Order No. 8843 of August 9, 1941, are hereby confirmed and ratified.

9. For the purpose of this Executive Order:

- (a) The term "designated enemy country" shall mean any foreign country against which the United States has declared war (Germany, Italy, Japan, Bulgaria, Hungary and Rumania) and any other country which declares war against or against which the United States declares war in the future. The term "national" shall have the meaning prescribed in section 5 of Executive Order No. 8389, as amended, provided, however, that persons not within designated enemy countries (even though

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 By EP NARA Date 3/7/00

DEPARTMENT OF STATE

THE LEGAL ADVISER

July 22, 1953

MEMORANDUM

TO: L - Mr. Phleger
 FROM: L/E - Mr. Stanley D. Metzger
 SUBJECT: Proposed legislation Amending the Trading With the
 Enemy Act

I understand that you have an appointment today with Mr. Schaeffer, Minister of Finance of the Federal Republic of Germany, and that he may discuss with you the question of the return of all or certain categories of vested German assets as proposed in various bills now before the Congress.

I attach herewith the memorandum of July 17, 1953 submitted by GER to you in which they take a generally favorable attitude towards such legislation. It is my intention to submit to you a more detailed draft reply to this memorandum, but, in view of your appointment with Mr. Schaeffer, I wish to outline in brief the objections I see to such legislation.

1. Part I, Article 6A, of the Paris Agreement on Reparations of January 1946 bound the United States and 18 other countries not to return German assets in their jurisdictions to the Germans; this prohibition applies to the return of proceeds of these assets as well as to the return of assets obtained by the Germans by gift, devise, trust, bequest or inheritance from American citizens. The German character of the assets is determined not by their origin but by their ownership at the time they are taken. Such returns, therefore, would be a clear violation of the Paris Agreement.

2. The proceeds of these assets are needed to pay American claimants who suffered war damage. The State Department has many times over the past ten years made statements to Congress and to private claimants that the proceeds of German, Japanese, and other enemy assets are so earmarked. As a matter of fact GER also has pointed out to the German Government that these assets are earmarked for the payment of American claims, and that therefore the German Government should not insist on the return of the assets, since such return would give rise to a demand that provision be made for the payment of American claims by Germany. At the present time,

Germany

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Germany (unlike Japan, Rumania, Bulgaria, Hungary and Italy) does not have an obligation to pay Americans for war damage suffered in Germany. The waiver of such claims against Germany contained in Part I, Article 2A, of the Paris Agreement is based on the receipt by the United States of reparations, including the assets in question.

3. The proceeds of enemy assets are wholly inadequate to satisfy individual American war claims. In its report to the Congress in January 1953 (House Doc. No. 67, 83d Cong., 1st Sess.) the War Claims Commission, after exhaustive study, concluded that, to satisfy American property damage war claims on a 50% basis, \$180 million would be required; the Commission estimated that only \$19 million will be left from enemy property proceeds distributions to personal injury claimants under existing law, to devote to property claims. It has therefore recommended a fresh appropriation of \$161 million for this purpose. Returns of enemy property would require equivalent increases in new appropriations.

4. Action to return German assets would undermine the position of the Department with respect to the retention of enemy assets of other countries, including Japan.

In order to arrive at a final view on the matter raised by GER it will be necessary to secure also the comments of the Northern Asia and Eastern European Divisions in the Department. In the absence of a definitive State Department position at the present time, I suggest that you merely indicate that heretofore the position of the Department has been in opposition to the return of any German assets, and that there are profound problems in connection with the return of German assets arising from the Paris Reparation Agreement and the need to satisfy American claims. You might also indicate, as GER has done in the past, that return of German assets might open up the question of payment by Germany of American war claims.

Attachment:

Memo of July 17, 1953.

L:L/E:SDMetzger:EMaurer:blm

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*S. 2111 is a
Companion bill
to H.R. 5988*

In reply refer to
L/E 611.00221/6-3053

JUN 21 1953

My dear Mr. Wolverton:

Reference is made to your letter of June 30, 1953 requesting the views of this Department concerning H.R. 5988, a bill to amend section 9(a) of the Trading with the Enemy Act, as amended, with reference to the sale of property claimed in a suit filed under section 9(a).

The present provisions of section 9(a) provide that when property is vested by the Office of Alien Property and a suit is filed for the return of that property by a claimant, the Office of Alien Property is required to retain such property in its custody until a final judgment or decree shall be rendered and satisfied or the suit is otherwise terminated. The effect of this provision is that the Office of Alien Property is unable to dispose of property which is vested until the termination of the suit. Since litigation involving the return of property is often of an extremely complicated nature, with the possibility of full appeal, suits may take many years to be finally adjudicated. In the meantime the United States Government is burdened with the custody of the property and is not in a position to sell when circumstances are most favorable. This situation becomes especially burdensome in the case of the supervision and management of enterprises which have been vested; often to the disadvantage of the

proper

The Honorable
Charles A. Wolverton, Chairman,
Committee on Interstate
and Foreign Commerce,
House of Representatives.

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In reply refer to
L/E 611.00221/2-953

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file
Legis. 1953

My dear Mr. Wolverton:

Reference is made to your letter dated February 9, 1953 requesting a report by this Department on H.R. 2681, "To extend the time for filing claims for the return of vested property under the Trading With the Enemy Act".

The bill under consideration would extend the time for filing claims for the return of property until one year after the date of enactment or two years from the date of vesting, whichever is later.

It may be recalled that Section 33 of the Trading With the Enemy Act was enacted on August 8, 1946, Public Law 671, 79th Congress. It provided for a period of limitation for the filing of claims for the return of vested property, the extent of which was two years from the date of enactment of that act or two years from the date of vesting of the particular property to which claim was being made, whichever was the later. It became apparent that a substantial number of persons would be unable to file claims by August 8, 1948, and as a result, there was enacted on July 1, 1948, Public Law 874, 80th Congress, which extended the date of limitation until April 30, 1949 or two years from the date of vesting, whichever was later. Notwithstanding this one extension of time, the matter of another extension was early raised.

The Department has now for some time been convinced that a general extension of the deadline is required in the interest of fairness to possible claimants and in the interest of good foreign relations of the United States. The Department recommended the enactment of such

legislation

The Honorable

Charles A. Wolverton, Chairman,
Committee on Interstate and Foreign Commerce,
House of Representatives.

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to your Committee in a letter of September 12, 1951 and has been considering the introduction of such legislation at the present session. The Department, therefore, strongly urges the enactment of the proposed legislation.

In connection with the foreign relations aspect, it may be mentioned that a number of communications have been received from foreign governments protesting against the April 30, 1949 time limit and urging an extension of time. For the ready reference of the Committee there are enclosed copies of ten notes which have heretofore been received at various times from the Governments of Austria, Denmark, Italy and France on this subject. In addition, the British, Norwegian, Belgian and Netherlands Governments have informally made representations to the Department concerning an extension of time.

From the standpoint of fairness to claimants, the problem which gives rise to the need for the present legislation revolves around the adequacy of the notice given and the adequacy of time within which to file the claim. With respect to the notice given, it should be appreciated at the outset that the persons whose property has been taken have in the main been located abroad. While notice of vesting has been given by publication in the Federal Register, this notice is not apt to come to the attention of persons resident abroad. A further difficulty is added when, by the nature of the case, the notice could not specify the person whose property was taken or did not correctly specify such person. To overcome these faults in part, the Office of Alien Property, with the cooperation of the State Department, attempted to bring the existence of the deadline to the attention of other countries and their nationals. However, it now appears quite clear that, by reason of the serious dislocations in the world as an aftermath of the war, the notice did not come to the attention of a substantial number of interested persons. It should be noted further that the governments mainly involved were then seriously concerned with reconstruction of their devastated countries, as well as with the correction of economic maladjustments, and could only give incidental attention to the problem of fully informing their nationals and urging the presentation of claims. And in those cases in which a prospective claimant was in some way apprized of the possibility of a claim, the loss of records, the death of persons in the family most intimately concerned with the matter, and the overriding necessity of eking out a means of existence in the disturbed post-war period, all operated to make the time for filing inadequate in the circumstances.

There are also special situations which might be mentioned which highlight the need for the present legislation. Thus, as a result of an inquiry made by your Committee in a letter of June 3, 1949, the

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Department requested its representatives in Japan to report on alleged impediments to the timely filing of Japanese claims. It appeared from the report that while regulations in Japan permitted correspondence concerning claims to property held by the Office of Alien Property, it was not until March 28, 1949 that the regulations permitted the transmittal of "papers of legal procedure" or that any formal publicity was given the April 30, 1949 deadline for filing claims. On the basis of this report the Department stated in a letter to your Committee dated July 15, 1949 that the Department was prepared to recommend an extension of time for Japanese claimants to file their claims.

Also, in the field of decedents' estates, the Office of Alien Property in a letter of September 19, 1951, has set forth the hardships inflicted by the deadline. In certain of these decedents' estates cases the vesting orders were drawn to indicate the enemy status of the property, although the actual name of the owner could not be stated. Thus vestings might have taken place during the war, while determinations of heirship might not have been made by the probate court until after the expiry of the deadline. So in these cases the period for filing claims had in fact expired before the heirs had any knowledge of their right to file.

Another case involving somewhat similar elements concerns a considerable amount of United States currency and coin found in 1945 in the safe of the German Embassy. This was vested in September 1946 as "United States currency and coin owned by Germany". In the course of a purely collateral inquiry, it was ascertained in 1949 that in all probability a large part of the vested property constituted dollars made available during the war by the Italian Government to the German Government and to which the Italian Government had a possible claim. The case is one where the vesting order gave no indication of the inclusion of Italian property, and information regarding the particulars of the matter did not come to the attention of the Italian Government in time for a claim to be filed before the deadline.

On the basis of all the above, it is recommended that H.R.2681 be enacted in its present form so as to include all classes of claimants and to extend the time for the filing of claims for return of vested property for a period of one year from the date of the enactment of the amendment. This period is believed sufficient at the present juncture to permit all claimants who make a reasonable effort to file their claims to do so. The Department of State, in cooperation with the Office of Alien Property, would endeavor to give notice to other countries and their nationals on as wide a basis as possible. The Department is of the view that in this way a satisfactory conclusion can be brought to the problem of the filing of claims.

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It is appreciated that insofar as the time is extended for the filing of claims, the pool of vested assets may thereby be reduced. It is further appreciated that this pool of assets is to be considered as generally earmarked for the satisfaction of the claims of Americans who suffered war damage. It is nevertheless felt that the claims of friendly nationals for the return of their property, which claims are barred by an inadequate deadline, have a superior equity which calls for their prior satisfaction. Otherwise stated, the war damage claims can only be considered as fairly payable out of assets which genuinely belong to German and Japanese enemy nationals, and these claims cannot equitably be imposed as a barrier to the return of property to friendly nationals.

Sincerely yours,

For the Secretary of State:

Thruston B. Morton
Assistant Secretary

Enclosures:

1Q notes

L:L/E:EMaurer:mj
2/16/53

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DEPARTMENT OF STATE
THE LEGAL ADVISER

Talked with Lew Rubin
who quickly said just
want letter that money
has been paid out pursuant
to Treasury license and
will close books. Indicated
that still some separate
security account of Lithuania
but this has not been
significant

Talked with Edward Gray who
will send letter immediately
& indicate balance in account
is zero + day last had balance
of cents
Loyd Ely Mauer

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FEDERAL RESERVE BANK OF NEW YORK
 NEW YORK, N.Y. 10045

AREA CODE 212 RE 2-5700

May 9, 1966.

*(Keep logbook
Off-Site-Years)*

Ely Maurer, Esq.,
 Assistant Legal Adviser for Military
 and Economic Regional Affairs,
 Department of State,
 Washington, D. C.

Dear Ely:

In accordance with our conversation on Thursday, May 5, I am enclosing herewith, for your information, copies of drafts of two memoranda prepared in 1953 and 1957 describing telephone conversations with Messrs. Frohlich and Metzger of the State Department. I am also enclosing copies of a telegram dated April 18, 1955, and a letter dated May 20, 1955, which we received from Mr. Zadeikis, the former Minister of Lithuania, setting forth his understanding of the transactions underlying the alleged \$60,000 claim of Controla.

Sincerely yours,

Ned

Edward G. Guy,
 Assistant General Counsel.

Enclosures.

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STEVE BANKS
AFT (APRIL 21, 1953)
EGG:es 57

To: Legal Files
From: Edward G. Guy

Subject: The Government of Lithuania
Account and Vesting Order
19258.

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Vesting Order 19258 (executed April 15, 1953, filed April 15, 1953, appearing in the Federal Register of April 16, 1953) provides in part as follows:

"In re: Claim of N.V. Internationale Handel Maatschappij 'Controla'.

"Under the authority of the Trading With the Enemy Act, as amended * * * and pursuant to law, after investigation, it is hereby found:

* * *

"8. That the property described as follows: All rights and interests in, to and under the claim of N.V. Internationale Handel Maatschappij 'Controla' to an amount of \$60,000, formerly held by The Chase National Bank of the City of New York for the account of Lietuvos Bankas and transferred in May 1941 to the account of the Lithuanian Government with the Federal Reserve Bank of New York together with any and all rights to demand, enforce and collect the same, is property which is and prior to January 1, 1947, was within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by N.V. Internationale Handel Maatschappij 'Controla', the aforesaid national of a designated enemy country (Germany) * * *

* * *

"All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

"There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States. * * *

On March 30, 1953, Miss Thompson of the Department of Justice telephoned to our Foreign Department to inquire whether this bank has

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Received a deposit of \$60,000 from The Chase National Bank of the City of New York after April 1941 for account of Lietuvos Bankas or the Government of Lithuania. Miss Thompson was advised that this bank "had no record of ever having received any such deposit" and was referred to License No. W-646. This license permitted the transfer of \$348,598.02 from the Chase National Bank to this bank for credit to the account designated "The Government of Lithuania Dollar A/C".

On April 20, 1953, I telephoned to Mr. Frohlich at the State Department to inform him of Vesting Order 19258. Mr. Frohlich said that he knew of the claim of N.V. Internationale Handel Maatschappij "Controla" (hereinafter referred to as Controla) to the \$60,000. He said that Dutch Government representatives had discussed Controla's claim with representatives of the State Department some time ago. Mr. Frohlich said that as he recalled Controla's claim was based upon an arrangement for the purchase by Controla, a corporation resident in the Netherlands, of wood or wooden products from a seller in Lithuania; Controla claimed that it had never received the goods and having arranged through its bank in the Netherlands for \$60,000 to be credited to the account of Lietuvos Bankas in the Chase National Bank, Controla claimed that it was entitled to \$60,000 from Lithuanian funds. Mr. Frohlich said that the Lithuanian Minister had indicated at the time of these discussions that he did not recognize Controla's claim; that Mr. Metzger of the Legal Advisor's Office of the State Department who had participated in the discussions had, after considering the matter, informed the Dutch representatives that since the Lithuanian Minister did not recognize Controla's claim nothing could be done about it. Mr. Frohlich stated that he also recalled having seen a State Department memorandum

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concerning discussions between the State Department and the Office of Alien Property with reference to the possible vesting of this claim, but that he did not know the details of the decision to vest the claim. When I told Mr. Frohlich that we had in mind advising the Lithuanian Minister of Vesting Order 19258, Mr. Frohlich said that he thought the State Department would prefer not to have us contact the Minister (who he said is aged and in failing health) and that instead State Department representatives would do so. I indicated that this would be all right with us. Mr. Frohlich said that he would discuss my telephone call with those in the Department interested and would call me back.

On April 21, 1953, Mr. Frohlich telephoned to advise that State Department representatives, after talking with the Office of Alien Property, had informed the Lithuanian Minister of Vesting Order 19258 and also had informed the Minister that no attempt would be made by the Office of Alien Property at this time to effect compliance with the Vesting Order. Mr. Frohlich said that the Office of Alien Property was still going into the merits of Controla's claim and was not satisfied that there was any basis for the claim. He indicated that Vesting Order 19258 had been issued ^(on April 5, 1953) before this investigation had been completed in view of the decision of the United States Government to issue no further vesting orders after April 17 with reference to property of German nationals. Mr. Frohlich said that the Lithuanian Minister was coming to the State Department to discuss the matter on April 22 and that the Minister would furnish the State Department with ~~an actual copy~~ of the contract relating to Controla's claim. Mr. Frohlich said there appeared to be three possible claimants with respect to the \$60,000. First there was Controla. Secondly

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There was the Lithuanian seller; the State Department had a copy of a letter purporting to come from the seller, now in Israel, which letter had been addressed to the Consular General of Lithuania in New York City; the letter indicated that in April 1940 the seller had entered into an agreement to sell wood (products) to Controla, ^{the wood} that ~~it~~ had been loaded and accepted by Controla's representative in June 1940, and about this time the seller had had to leave Lithuania since the country had been occupied by Soviet forces, and that the seller was entitled to payment in full for the products thus delivered to Controla. Thirdly, there was Lietuvos Bankas; Lietuvos Bankas might have paid the Lithuanian seller and, accordingly, would be entitled to retain the funds credited to the Lietuvos Bankas account at the Chase National Bank. Mr. Frohlich indicated that he might have further information for us after the meeting with the Lithuanian Minister.

I told Mr. Frohlich that in connection with this matter we had done some preliminary review of the debits and credits to the Government of Lithuania account on our books. Such review indicated that the account of the Government of Lithuania was opened on our books early in 1941 with a transfer of dollars and gold from the account of Lietuvos Bankas on our books. Instructions to make the transfer were given by the Lithuanian Minister whose authority was covered by a section 25(b) certification and, of course, the transfer was licensed by the Treasury Department. On May 20, 1941, The Chase National Bank of the City of New York transferred \$348,598.02 to us for account of the Government of Lithuania. I said that my impression was that the authority to make this transfer ^{and have been} also covered by a section 25(b) certification. Subsequently, we received further

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its most, if not all, of which were from New York City banks, for credit to the Government of Lithuania account and by December 31 the balance in the Government of Lithuania dollar account was \$773,657.41. Thereafter we made payments from the account to the Riggs National Bank, Washington, D. C., for account of the Lithuanian Legation. Instructions to make all of these payments (to the Riggs National Bank) were given by the Lithuanian Minister whose authority in each case was covered by a section 25(b) certification and appropriate Treasury Department license. By the close of business February 21, 1949, the dollar balance in the Government of Lithuania account amounted to only \$4,639.48. In June 1950 in order to provide funds for a further transfer to the Riggs National Bank for account of the Lithuanian Legation, some of the gold was sold and the proceeds credited to the Government of Lithuania dollar account. Thereafter on June 20, 1950, such transfer to the Riggs National Bank in the amount of \$80,000 was made; after the transfer was made the balance in the account was \$2,654.53. I indicated to Mr. Frohlich that my initial reaction to this record was that even if it be assumed that the \$60,000 referred to in the Vesting Order had been received into the Government of Lithuania dollar account on our books from the Chase National Bank in 1941 such \$60,000 had been paid out of the Government of Lithuania account (on instructions of the Minister of Lithuania whose authority was covered by section 25(b) certification) and was no longer in the account.

It seems to me that we should take steps to inform the Office of Alien Property by letter of certain of the information referred to above relating to the account of the Government of Lithuania on books. Any such letter should be cleared with the Lithuanian Minister through the State Dept. before it is sent to the OAP.

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DRA (APRIL 15, 1957)
 EGG:es

To: Legal Dept. Files
 From: Edward G. Guy

Subject: Government of Lithuania
 Account.

On Friday, April 12, 1957, Mr. Elton F. Weeks, Chief, Collection and Custody Unit, Liquidation Section, Office of Alien Property, Department of Justice, telephoned with reference to the Government of Lithuania account on our books. Mr. Weeks referred to our conversations several years ago (1955) with reference to Vesting Order 19258 vesting in the Attorney General of the United States "All rights and interest in, to and under the claim of N. V. Internationale Handel Maatschappij 'Controla' to an amount of \$60,000 formerly held by The Chase National Bank of the City of New York for the account of Lietuvos Bankas and transferred in May 1941 to the account of the Lithuanian Government with the Federal Reserve Bank of New York together with any and all rights to demand, enforce and collect the same", and with reference to the Office of Alien Property's letters us dated April 14 and 25, 1955, in which conversations he had agreed to let me know if the Office of Alien Property contemplated any further action with reference to the property covered by such Vesting Order so that we might have an opportunity to make suggestions to the Office of Alien Property prior to the latter's taking formal action. Mr. Weeks said that in connection with certain claims of Dutch owners of Controla the Office of Alien Property was faced with pending suits and the litigation branch had raised the question as to whether steps should be taken to reduce the property vested to custody or whether Federal Reserve Bank of New York should be impleaded in such suits. Mr. Weeks indicated that there were several possible claimants to

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,000 including two Jewish brothers in Israel, Mrs. Stinnes, whom he referred to as the owner of Wagenkencht, the Lithuanian Minister, and I believe he said someone else who at present is in Mexico. Mr. Weeks said that the present plans called for an office conference in the Office of Alien Property probably on Tuesday or Wednesday (April 16-17, 1957) and that he probably would telephone to us during that conference to inquire whether or not we had decided which of the two courses of action previously indicated we would prefer. He said that of course if we had not made any decision then the Office of Alien Property would just have to wait until we did. During the course of our conversation, he indicated that he understood that we felt that the funds may have been expended but he said in this connection that if they had he wondered whether they had not been replenished. He also inquired whether we might be willing to turn over the \$60,000 to the Office of Alien Property without the Lithuanian Minister's approval if the Office of Alien Property issued an appropriate license to us covering the transaction. He also indicated that the Office of Alien Property had received clearance from the Department of State in 1955 to proceed with this matter. I thanked Mr. Weeks for his thoughtfulness in telephoning to us and said that I would immediately start working on the matter.

Following my telephone conversation with Mr. Weeks, I telephoned to Mr. Frohlich of the Department of State and told him of the above mentioned telephone conversation with Mr. Weeks, and said that I would like to talk with Stanley Metzger of the Legal Advisor's office with reference to this matter if Mr. Frohlich had no objection. In this connection I said that there was some question in my mind as to the matter of sovereign immunity which I particularly wished to discuss

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with Mr. Metzger. Mr. Frohlich indicated he thought that there was a problem with reference to this matter and he thought it appropriate for me to talk with Stanley Metzger since the latter had had some previous connection with Controla's claim in connection with an inquiry to the State Department from the Dutch Government acting on behalf of Controla. Mr. Frohlich also indicated that if as a result of my telephone conversation with Stanley Metzger it appeared appropriate for someone to contact the Lithuanian Minister that I should get in touch with him (Mr. Frohlich).

Mr. Metzger was not available on Friday, but he did return my call early Monday morning, April 15, 1957. I informed him of the recent developments referred to above with reference to the Government of Lithuania account on our books. Mr. Metzger said that he knew something of Controla's claim in view of his discussion with Dutch Government officials some years ago. In this connection, he said that the Lithuanian Government took the position that it was a trustee of Lithuanian assets in this country and that pending determination of all of the many claims of persons in this country with reference to such assets, no particular claims would be determined. In this connection Mr. Metzger indicated that the Lithuanian assets might not be sufficient to cover all claims and accordingly it would be inequitable to permit some claims to be paid before others were considered. He said that accordingly in his conversation with the Lithuanian Government at the time of his discussion with the Dutch Government officials the Lithuanian Government had indicated that it would not determine the merits of Controla's claim and he said that since the Lithuanian Government probably was entitled to sovereign immunity the Dutch Government was not in a position to do anything further about Controla's claim.

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said to Mr. Metzger it appeared to me on the surface at least that the Office of Alien Property now proceeded to gain possession of the \$60,000 in the Government of Lithuania account on our books in connection with a suit by Controla against the Office of Alien Property it would seem that Controla was by such procedure overcoming the sovereign immunity obstacle. Mr. Metzger said that he was glad that I had called the matter to his attention; that he had not been aware even that a vesting order had been issued and that he thought he would like to look into the matter and would thereafter telephone to me. I said that Mr. Weeks had indicated to me that in 1955 when the Office of Alien Property wrote its letters to us demanding the \$60,000 covered by Vesting Order 19258 that the State Department had given clearance to the Office of Alien Property. In my telephone conversation with Mr. Metzger I also referred to the fact that the Lithuanian Government account on our books had been opened and operated by us to accommodate and facilitate the policy of our Government; that no action had ever been taken with respect to such account except under instructions of the Lithuanian Minister whose authority to issue such instructions was covered by a section 25(b) certification and an appropriate license from the Treasury Department or the Office of Alien Property or both, and that all (or virtually all) of the original deposit we received from The Chase National Bank of the City of New York had been paid to the Riggs National Bank for account of the Lithuanian Legation under instructions of the Minister whose authority as indicated had been covered by an appropriate section 25(b) certification. While perhaps I was entirely not articulate in my conversation with Mr. Metzger, I indicated to him in some degree that in view of the background of this account it seemed odd for a branch of our Government

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 AI-5347 OFFICE
 Entry of legal advisor
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 Box 3

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attempt to force us to act in an instance where as in the present case the Lithuanian Minister had in effect clearly instructed us not to comply with the Office of Alien Property's demands. What I have in mind in this connection is that the State Department to avoid any embarrassment or possible risk to this bank should either bring the Lithuanian Minister to the position that he will withdraw his instructions to us.

Subsequently on April 15, 1957, I telephoned to Mr. Weeks and informed him of my telephone conversation with Mr. Metzger. Mr. Weeks indicated that he had discussed this matter with Mr. Henry Hilken of the Office of Alien Property, with his superior (whom he did not otherwise identify) and with the litigation section of the Office of Alien Property, and he thought probably that they would have an interoffice conference possibly later this week. With reference to the Department of State, he said that the Department had given them clearance in this matter and that he thought probably Mr. Metzger would discover that upon getting out the file. I told Mr. Weeks that we would be very pleased and happy to come down to Washington and discuss this matter with representatives of the Office of Alien Property at any time. He said that he had already indicated to several members in the office that we probably would wish to do this and he said that he would again stress this point. In my conversation with Mr. Weeks I told him that the dollar balance in the account at the present time was approximately \$411, and that we held securities for account of the Government of Lithuania amounting to many times \$60,000.

[5/4/66: My recollection is that a few days after the above telephone call, Mr. Weeks telephoned to inform me that the Office of Alien Property had decided to take no further action at that time with respect to the \$60,000 claim.]

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 A1-534T OFFICE
 Entry OF legal advisor
 File OAP General III
 Box 3

DECLASSIFIED
 Authority XND009020
 By EP NARA Date 3/7/00

FEDERAL RESERVE BANK
NEW YORK

TELEGRAM

COMMERCIAL WIRE - INCOMING

ATTENTION

TRANSLATION COPY

BANK OF

WIRE TRA
DIVISIONDECODED
CHECKED
COMPANY

PA077
 EN09 W.ZVA063 NL LONG PD ZW WASHINGTON DC 18
 FEDERAL RESERVE BANK OF NEW YORK
 ATTENTION MR NORMAN P DAVIS ASSISTANT VICE PRES NYK

sent April 18 1955
 recd April 19 1955

Foreign Dept.

I UNDERSTAND OFFICE ALIEN PROPERTY IS WRITING YOU TODAY PRESUMABLY TO REQUEST YOU TO TRANSFER TO OFFICE ALIEN PROPERTY THE SUM OF SIXTY THOUSAND DOLLARS REPRESENTING IRREVOCABLE LETTER OF CREDIT DEPOSITED APRIL 13 1950 IN CHASE NATIONAL BANK TO ACCOUNT OF LIETUVOS BANKAS AND WHICH SUM WAS LATER TRANSFERRED TO BLOCKED LITHUANIAN GOVERNMENT DOLLAR ACCOUNT STOP THIS SUM PERTAINS TO BLOCKED LITHUANIAN GOVERNMENT DOLLAR ACCOUNT STOP THIS SUM PERTAINS TO COMMERCIAL TRANSACTION BETWEEN NETHERLANDS FORM AS BUYER AND LITHUANIAN EXPORT FIRM BURSTEIN BROTHERS AND SOGANAS AS SELLER FOR 12000 METERS OF WOODSTOP IN ACCORDANCE WITH LITHUANIAN LAW I CLAIM THE SUM OF SIXTY THOUSAND DOLLARS AS BELONGING TO LIETUVOS BANKAS AND NOW BELONGING TO LITHUANIAN GOVERNMENT DOLLAR ACCOUNT IN YOUR BANK STOP LETTER FOLLOWS

P. ZADEIKIS MINISTER OF LITHUANIA TO THE UNITED STATES

329935

RG 59
AI-5347 OF A/C
Entry of legal advisor
File OAP General III
Box 3

DECLASSIFIED
Authority XIND009020
By EP NARA Date 3/7/00

No. 972

May 20, 1955

MAY 23 1:30 AM
LITHUANIAN LEGATION,
WASH. D. C.
MAIL ROOM OF
FEDERAL RESERVE BANK

APR 12 1957

FEDERAL RESERVE BANK

Federal Reserve Bank of New York,
Federal Reserve P. O. Station,
New York 45, N. Y.

Gentlemen:

Attention: Mr. Norman P. Davis,
Assistant Vice President

I received yesterday, through the Department of State, your letter of May 10, 1955, together with photostat copies of letters dated April 14 and April 25, 1955, and of a photostat of the certified copy of Vesting Order 19258 enclosed with the letter of April 25, 1955, from the Office of Alien Property addressed to your bank.

Referring to my telegram to you, dated April 18, 1955, the receipt of which was confirmed by Mr. Guy of your bank in our telephone conversation on April 21, 1955, these are the pertinent facts concerning the claim of N. V. Internationale Handel Maatschapij "Controla" to an amount of \$60,000, formerly held by the Chase National Bank, and now held by the Federal Reserve Bank of New York in accounts on its books in the name of the Government of Lithuania, and the Vesting Order 19258 from the Office of Alien Property:

1. On or about March 26, 1940, N. V. Internationale Handel Maatschapij "Controla," a firm of Amsterdam, The Netherlands, (hereinafter referred to as the buyer) and Burstein Brothers and

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AI-5347 OFFICE
Entry of legal advisor
File OAP General III
Box 3

DECLASSIFIED
Authority XND009020
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- 2 -

No. 972

May 20, 1955

Soganas, a Lithuanian export firm (hereinafter referred to as the seller) concluded a contract under which the buyer agreed to pay to the seller the sum of \$60,000 on the delivery of 12,000 cubic meters of woodpulp at the Port of Klaipeda (Memel), at that time under German domination. The seller (now living in Tel-Aviv, Israel) claims that the contract on its part was fulfilled when 16 or 17 barges of timber reached the Port of Klaipeda (Memel) the first week in May, 1940. (In a letter, dated Tel-Aviv, 15.1.1952, addressed to Jonas Budrys, Consul General of Lithuania in New York, Burstein Brothers state:

"In April 1940 we entered an agreement with the Dutch firm 'Nederlandsche Handel-Mustashapij N. V.' to sell 12000 metres wood pulp ... We fulfilled all terms of our agreement with the a/m Dutch firm, delivered all the sold wood but got never any consideration."). The buyer insists that the 12,000 cubic meters of woodpulp were not delivered by the seller on time (although the time of delivery was not specifically stated in the contract). Therefore, the controversy, in accordance with paragraph 7 of the contract, should be solved by a court of arbitration to be established in Kaunas. Paragraph 7 of said contract reads as follows:

"7. Arbitration.

All disputes arising from this contract shall be settled by a Court of Arbitration that shall be formed in Kaunas."

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 AI-5347 OFFICE
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11/16/66
 - 3 -

No. 972

May 20, 1955

2. Before exporting goods abroad, Lithuanian exporters (in this case Burstein Brothers) were required by law ("Law to Regulate Transactions in Foreign Exchange," promulgated February 8, 1940, Kaunas, Lithuania, Vyriausybės Zinios - Government Gazette - No. 691 - see paragraph 12 of enclosure) to declare to the Lithuanian Customs Board that they agree to transfer to Lietuvos Bankas (Bank of Lithuania) all foreign currency acquired by them in such transactions. That the goods reached the Port of Klaipeda (Memel) is sworn to (declaration, dated October 30, 1953) by Sender Burstein, general manager of the Lithuanian Association of Steamship and Barge Owners. Thus, Lietuvos Bankas, having acquired the right to the sum of \$60,000, according to paragraph 10 of the aforesaid law, placed itself under obligation to pay to the Burstein Brothers a sum in litas (Lithuanian currency) equivalent to \$60,000. On the basis of cables exchanged between Lietuvos Bankas and "Controla" during the period of April 11-13, 1940, Lietuvos Bankas on April 16, 1940, informed "Controla" that it opened an account in a Kaunas bank in the name of T. and N. burstein and Soganas in the amount of 355,200 litas.

3. By Vesting Order 19258 of April 13, 1953, the Office of Alien Property, Department of Justice, has taken over only the claim of "Controla" (Section 8 of the Vesting Order). This change should not affect the rights and interests of Lietuvos Bankas (Bank of Lithuania), acquired by virtue of paragraph 12 of the

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A1-5347 OFFICE
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No. 972

May 20, 1955

above mentioned Lithuanian law.

4. Since the interests of Lietuvos Bankas are directly involved in this case, I, as the legally accredited representative of the Government of Lithuania to the Government of the United States, consider it my duty to inform you that ownership of said sum by "Controla" has not been proved. The settlement of the dispute, in accordance with paragraph 7 of the contract must await the decision of a court of arbitration. Therefore I am not in a position to agree to the transfer of the said sum of \$60,000 to the Office of Alien Property. In my opinion, no sums held by the Federal Reserve Bank of New York in the name of the Government of Lithuania may be transferred or disposed of without instructions from me, the legally accredited representative of the Government of Lithuania to the Government of the United States.

Sincerely yours,

P. Zadeikis Jr

P. Zadeikis
Minister of Lithuania

Enclosure:

Texts of Paragraph 10
and Paragraph 12 of
Law to Regulate Transactions
in Foreign Exchange

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 AI-5347 OFFICE
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 Authority UNDO09020
 By ED NARA Date 3/7/00

11/16

EnclosureLAW TO REGULATE TRANSACTIONS IN FOREIGN EXCHANGE

Par. 10.

Individual traders, trading companies and cooperatives as well as their associations shall cede to the Bank of Lithuania, or to a credit institution designated by the Bank of Lithuania, all means of payment and claims received in foreign currency not later than 5 days after the receipt of such means or claims.

Other persons and corporations, acquiring the aforesaid means or claims shall register them with the Bank of Lithuania within the period indicated in the preceding paragraph.

Payment shall be made in Litas (Lithuanian currency) for all such ceded means of payment and claims received in foreign currency.

The provisions of this law shall not be applicable to those foreign currency means of payment and claims that have not been accepted by the Bank of Lithuania.

Foreign currency acquired as a means of payment and claims, registered with the Bank of Lithuania, may be used for purposes other than ceding them to the Bank of Lithuania, or its designated institution, only upon the receipt of special permission of the Committee on Currency.

Par. 12.

An exporter, exporting goods abroad, shall submit to the Customs Board copies of invoice and bill of lading or carrier's statement. Moreover, he shall submit to the Customs Board a written declaration, stating the terms agreed upon concerning price, currency, and the time of payment for the goods exported,

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- 2 -

and at the same time agreeing to cede, as indicated in Paragraph 10, the foreign currency acquired in such transaction.

The above mentioned documents shall be forwarded by the Customs Board to the Committee on Currency.

Kaunas, February 3, 1940

Vyriausybės Zinios (Government Gazette), No. 691,
February 8, 1940.

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 Authority XND009020
 By EP NARA Date 3/7/00

FEDERAL RESERVE BANK OF NEW YORK

NEW YORK, N.Y. 10045

AREA CODE 212 RE 2-5700

April 29, 1966.

Received April 30/1966
Guy

Ely Maurer, Esq.,
 Assistant Legal Adviser for Military
 and Economic Regional Affairs,
 Department of State,
 Washington, D.C.

Dear Ely:

In accordance with our telephone conversation on April 26, 1966, I enclose herewith a draft dated 4/27/66 of letter from this Bank to the Office of Alien Property, Department of Justice, with reference to the \$60,000 claim of N.V. Internationale Handel Maatschappij "Controla", described in Vesting Order 19258, dated April 13, 1953.

In reviewing our records relating to this matter, I find that my conversations in April, 1957 were with Mr. Stanley Metzger and that Mr. Metzger, rather than you, discussed the problem at that time with the Office of Alien Property.

It seems to me that it would be desirable for us to get together to discuss the enclosed draft as soon as possible. Accordingly, I plan to telephone to you on Monday, May 2, to inquire whether it would be agreeable to you for one of my associates, Mr. Chester B. Feldberg, and I to visit you on either May 4, 5, or 6.

Sincerely yours,

Ned

Edward G. Guy,
 Assistant General Counsel.

Enclosure.

329942

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AI-5347 OFFICE
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DECLASSIFIED
Authority XIND009020
By EP NARA Date 3/7/00

4/27/66
EGG/dp

DRAFT OF LETTER FROM FEDERAL RESERVE BANK OF
FEDERAL RESERVE BANK OF NEW YORK

DEPARTMENT OF JUSTICE

NEW YORK, NEW YORK 10045

Office of Alien Property,
Department of Justice,
Washington, D. C. 20530.

April 29, 1966.

Attention: Mr. Lewis E. Rubin

Your Reference No. 400-821
V. G. 1966

Ely Maurer, Esq.,
Assistant Legal Adviser for Military
and Economic Regional Affairs,
Department of State, re: to you letter of January 4, 1956 and
Washington, D. C.

To the recent telephone conversation between you and Mr. Chester
Dear Ely:

B. Feldberg of this office.

In accordance with our telephone conversation on April 26, 1966, I enclose herewith a draft dated 4/27/66 of letter from this Bank to the Office of Alien Property, Department of Justice, with reference to the \$60,000 claim of N.V. Internationale Handel Maatschappij "Controis", described in Vesting Order 19258, dated April 13, 1953.

Wor still: In reviewing our records relating to this matter, I find that my conversations in April, 1957 were with Mr. Stanley Metzger and that Mr. Metzger, rather than you, discussed the problem at that time with the Office of Alien Property.

It seems to me that it would be desirable for us to get together to discuss the enclosed draft as soon as possible. Accordingly, I plan to telephone to you on Monday, May 2, to inquire whether it would be agreeable to you for one of my associates, Mr. Chester B. Feldberg, and I to visit you on either May 4, 5, or 6, at Washington to the United States, whose

authority to leave such time sincerely yours, referred to us by the Secretary of State of the United States pursuant to

Section 25(b) of the Federal **Edward G. Guy,**
Assistant General Counsel.

return to Treasury Department's license No. P-545 dated

Enclosure.

EGG/dp

In 1941, we opened on May 10, 1941, an account for and in the name of the Government of Lithuania, and transferred thence the dollar balance and gold held by us in the Lithuanian Bank account on our books, and closed the latter account.

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 AI-5347 OFFICE
 Entry of legal advisor
 File OAP General III
 Box 3

DECLASSIFIED
 Authority XND009020
 By EP NARA Date 3/7/00

4/27/66
 EGG:CBF/dp

**DRAFT OF LETTER FROM FEDERAL RESERVE BANK OF
 NEW YORK TO THE OFFICE OF ALIEN PROPERTY, DE-
 PARTMENT OF JUSTICE**

Office of Alien Property,
 Department of Justice,
 Washington, D. C. 20530.

Attention: Mr. Lewis E. Rubin

Your Reference No. F28-831
 V. O. 19258

Gentlemen:

Reference is made to your letter of January 4, 1966 and to the recent telephone conversation between you and Mr. Chester B. Feldberg of this Bank, with respect to the \$60,000 claim of N. V. Internationale Handel Maatschappij "Controla", referred to in Vesting Order 19258, dated April 13, 1953. In the course of the conversation referred to, you asked whether the subject matter of that claim was still being held by the Federal Reserve Bank of New York and, if not, when the funds had been withdrawn. A review of our records during the period between 1941 and 1950 reveals the following pertinent information:

- (1) In accordance with instructions from Mr. Povilas Zadeikis, Minister of Lithuania to the United States, whose authority to issue such instructions was certified to us by the Secretary of State of the United States pursuant to Section 25(b) of the Federal Reserve Act, as amended, and pursuant to Treasury Department License No. W-645 dated May 14, 1941, we opened on May 15, 1941, an account for and in the name of the Government of Lithuania, and transferred thereto the dollar balance and gold held by us in the Lietuvos Bankas account on our books, and closed the latter account.

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 A1-5347 OFFICE
 Entry of legal advisor
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 Box 3

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 By EP HARA Date 3/7/80

-2-

(2) On May 20, 1941, a deposit in the amount of \$348,598.02 was received by this Bank from The Chase National Bank of the City of New York for credit to the Government of Lithuania dollar account on our books. We were informed by The Chase National Bank at the time such deposit was made that the deposit was effected in accordance with Treasury Department License No. W-646. The balance in the Government of Lithuania dollar account at the close of business May 20, 1941, was \$418,363.35.

(3) During the remainder of 1941 we received further deposits, most of which were from New York City banks, for credit to the Government of Lithuania dollar account on our books. We were informed by the depositing bank in each case of the Treasury Department license in accordance with which the particular deposit involved was made. At the close of business December 31, 1941, the balance in the Government of Lithuania dollar account on our books was \$773,657.41.

(4) During the years 1942 through 1949, only one further credit in the amount of \$1,058.07 was made to the Government of Lithuania dollar account on our books, and during this period we effected one payment each year from the Government of Lithuania dollar account to The Riggs National Bank of Washington, Washington, D. C., for credit to an account in the name of the Lithuanian Legation, from which latter account payments, transfers and withdrawals were to be made only pursuant to further license issued under Executive Order 8389, as amended. Each of these payments by us was effected

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Entry of legal advisor
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Authority UNDO09020
By EP NARA Date 3/7/00

-3-

pursuant to instructions from the Lithuanian Minister whose authority to issue such instructions was certified to us by the Secretary of State pursuant to Section 25(b) of the Federal Reserve Act, as amended, and pursuant to appropriate Treasury Department licenses issued to this Bank. The balance in the Government of Lithuania dollar account on our books at the close of business February 21, 1949, after making these payments was \$4,639.48.

(5) In June 1950 in order to provide dollar funds for a further transfer, in the amount of \$80,000, to The Riggs National Bank of Washington, Washington, D. C., on instructions of the Lithuanian Minister, certain gold earmarked in the gold account on our books in the name of the Government of Lithuania was sold and the dollar proceeds credited to the Government of Lithuania dollar account. Such sale of gold and the payment of \$80,000 to The Riggs National Bank of Washington, Washington, D. C. (for credit to an account in the name of the Lithuanian Legation, in which latter account payments, transfers and withdrawals were to be made only pursuant to a further license issued under Executive Order 8389, as amended) were effected pursuant to instructions from the Lithuanian Minister whose authority was covered by Section 25(b) certifications issued to this Bank by the Secretary of State of the United States, and pursuant to Treasury Department licenses issued to this Bank. After effecting such payment to The Riggs National Bank of Washington, the balance in the account at the close of business June 20, 1950, was \$2,654.53.

Will add that present balance is zero

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A1-5347 OFFICE

Entry of legal advisor

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Authority UNDO09020

By EP NARA Date 3/7/00

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Even if it is assumed that the \$60,000 referred to in Vesting Order 19258 was a part of the \$348,598.02 deposit, referred to in (2) above, credited on May 20, 1941, to the Government of Lithuania dollar account on our books, all of such funds have been paid out of such account under Treasury Department licenses and in accordance with instructions of the Minister of Lithuania whose authority to issue such instructions was certified to us by the Secretary of State of the United States pursuant to Section 25(b) of the Federal Reserve Act, as amended. [It seems to us that whatever claim "Controla", and the Office of Alien Property standing in the place of "Controla", may have against the Lithuanian Government, it is not a claim to property now in the Government of Lithuania account on our books.]

If I can be of any further assistance, please let me know.

Well done
Very truly yours,

329947

RG 59
 AI-5347 OFFICE
 Entry of legal advisor
 File OAP General III
 Box 3

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 Authority XND009020
 By EP NARA Date 3/7/00

4/27/66
 EGG:CRF/dp

**DRAFT OF LETTER FROM FEDERAL RESERVE BANK OF
 NEW YORK TO THE OFFICE OF ALIEN PROPERTY, DE-
 PARTMENT OF JUSTICE**

Office of Alien Property,
 Department of Justice,
 Washington, D. C. 20530.

Attention: Mr. Lewis E. Rubin

Your Reference No. P28-831
 V. O. 19258

Gentlemen:

Reference is made to your letter of January 4, 1966 and to the recent telephone conversation between you and Mr. Chester B. Feldberg of this Bank, with respect to the \$60,000 claim of N. V. Internationale Handel Maatschappij "Contrela", referred to in Vesting Order 19258, dated April 13, 1953. In the course of the conversation referred to, you asked whether the subject matter of that claim was still being held by the Federal Reserve Bank of New York and, if not, when the funds had been withdrawn. A review of our records during the period between 1941 and 1950 reveals the following pertinent information:

- (1) In accordance with instructions from Mr. Povilas Zadzikis, Minister of Lithuania to the United States, whose authority to issue such instructions was certified to us by the Secretary of State of the United States pursuant to Section 25(b) of the Federal Reserve Act, as amended, and pursuant to Treasury Department License No. V-645 dated May 14, 1941, we opened on May 15, 1941, an account for and in the name of the Government of Lithuania, and transferred thereto the dollar balance and gold held by us in the Lietuvos Bankas account on our books, and closed the latter account.

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 AI-5347 OFFICE
 Entry of legal advisor
 File OAP General III
 Box 3

DECLASSIFIED
 Authority UNDO09020
 By ED NARA Date 3/7/00

-2-

(2) On May 20, 1941, a deposit in the amount of \$348,598.02 was received by this Bank from The Chase National Bank of the City of New York for credit to the Government of Lithuania dollar account on our books. We were informed by The Chase National Bank at the time such deposit was made that the deposit was effected in accordance with Treasury Department License No. W-646. The balance in the Government of Lithuania dollar account at the close of business May 20, 1941, was \$418,363.35.

(3) During the remainder of 1941 we received further deposits, most of which were from New York City banks, for credit to the Government of Lithuania dollar account on our books. We were informed by the depositing bank in each case of the Treasury Department license in accordance with which the particular deposit involved was made. At the close of business December 31, 1941, the balance in the Government of Lithuania dollar account on our books was \$773,657.41.

(4) During the years 1942 through 1949, only one further credit in the amount of \$1,058.07 was made to the Government of Lithuania dollar account on our books, and during this period we effected one payment each year from the Government of Lithuania dollar account to The Riggs National Bank of Washington, Washington, D. C., for credit to an account in the name of the Lithuanian Legation, from which latter account payments, transfers and withdrawals were to be made only pursuant to further license issued under Executive Order 8389, as amended. Each of these payments by us was effected

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Authority XND009020
By EP NARA Date 3/7/00

Even if it is assumed that the \$60,000 referred to in Vesting Order 19258 was a part of the \$348,598.02 deposit, referred to in (2) above, credited on May 20, 1941, to the Government of Lithuania dollar account on our books, all of such funds have been paid out of such account under Treasury Department licenses and in accordance with instructions of the Minister of Lithuania whose authority to issue such instructions was certified to us by the Secretary of State of the United States pursuant to Section 25(b) of the Federal Reserve Act, as amended. It seems to us that whatever claim "Centrolia", and the Office of Alien Property standing in the place of "Centrolia", may have against the Lithuanian Government, it is not a claim to property now in the Government of Lithuania account on our books.

If I can be of any further assistance, please let me know.

Very truly yours,

329950

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 A1-5347 OFFICE
 Entry of legal advisor
 File OAP General III
 Box 3

DECLASSIFIED
 Authority UNDO09020
 By EP NARA Date 3/7/00

CASE REFER
NUMBER

1
 .O. 19258
 LER:A JFS:ii

DEPARTMENT OF JUSTICE
 OFFICE OF ALIEN PROPERTY
 WASHINGTON 25, D.C.

APR 12 1951

LEGAL EXPERT

April 14, 1955

Federal Reserve Bank of New York
 New York 45, New York

Gentlemen:

On April 15, 1953 there was transmitted to you a certified copy of Vesting Order 19258, vesting in the Attorney General of the United States:

"All rights and interests in, to and under the claim of N.V. Internationale Handel Maatschappij 'Controla' to an amount of \$60,000, formerly held by The Chase National Bank of the City of New York for the account of the Lithuanian Government with the Federal Reserve Bank of New York together with any and all rights to demand, enforce and collect the same."

At the time the vesting order was forwarded to you you were advised that no action was to be taken until further instructed by this Office. You are now authorized and directed, pursuant to the terms of the Order, to debit the account of the Lithuanian Government in the amount of \$60,000 and to forward your check for that amount to this Office. Your check is to be drawn payable to the order of the "Attorney General of the United States," Account No. 28-44381."

Please sign the acknowledgement on the attached copy of this letter and return same to this Office in the enclosed franked self-addressed envelope.

Very truly yours,

Dallas S. Townsend
 Assistant Attorney General
 Director, Office of Alien Property

By:

Alton F. Weeks
 Alton F. Weeks, Chief
 Collection and Custody Unit

SEARCHED
 INDEXED
 SERIALIZED
 FILED
 APR 12 1951

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 By EP NARA Date 3/7/00

CLASS REFERRED
 FILE NUMBER
 831
 V. 20258
 LER: A.Will

DEPARTMENT OF JUSTICE
 OFFICE OF ALIEN PROPERTY
 WASHINGTON 25, D. C.



April 25, 1955

Federal Reserve Bank of New York
 New York 45, N. Y.

Attention: Mr. H. Cowan

Gentlemen:

Pursuant to our telephone conversation of April 21, this is to advise that you are requested to take no further action with respect to the Claim of N.V. Internationale Handel Maatschappij "Controls," which is subject to Vesting Order 19258, a certified copy of which is enclosed, pending further advice from this Office.

I await your letter concerning this matter and thank you for your cooperation.

Very truly yours,

Paul V. Myron
 Deputy Director
 Office of Alien Property

By:

Alton F. Weeks
 Alton F. Weeks, Chief
 Collection and Custody Unit
 Liquidation Section

Enclosure

329952

RG 59
 A1-5347 OFFICE
 Entry of legal advisor
 File OPP General III
 Box 3

DECLASSIFIED
 Authority XND009020
 By EP ARA Date 3/7/80

329953

DEPARTMENT OF JUSTICE
 OFFICE OF ALIEN PROPERTY

Vesting Order 19258

Re: Claim of N. V. Internationale Handel Maatschappij "Controla"

Under the authority of the Trading with the Enemy Act, as amended, (50 U.S.C. App. and Sup. 1-40); Public Law 181, 82d Congress, 65 Stat. 451; Executive Order 9193, as amended by Executive Order 9567 (3 CFR, 1943 Cum. Supp.; 3 CFR, 1945 Supp.); Executive Order 9788 (3 CFR, 1946 Supp.) and Executive Order 9989 (3 CFR, 1948 Supp.), and pursuant to law, after investigation, it is hereby found:

1. That Hugo Stinnes, Jr., Ernst Stinnes, Otto Stinnes and Hilde Fiedler, each of whose last known address is Germany, on or since December 11, 1941, and prior to January 1, 1947 were residents of Germany and are, and prior to January 1, 1947 were, nationals of a designated enemy country (Germany);
2. That Clare Wagenknecht Stinnes, Sr., who on or since December 11, 1941, and prior to January 1, 1947 was, a resident of Germany, is, and prior to January 1, 1947 was, a national of a designated enemy country (Germany);
3. That N. V. Edmund Wagenknecht's Handelmaatschappij, the last known address of which is Heergracht 256 Amsterdam, Holland, is a corporation organized under laws of Holland which on or since December 11, 1941 and prior to January 1, 1947 has been owned or controlled by or acting or purporting to act directly or indirectly for the benefit of or on behalf of the aforesaid Clare Wagenknecht Stinnes, Sr. and is and prior to January 1, 1947 was a national of a designated enemy country (Germany);
4. That the Union Trading and Financing Company, the last known address of which is Copenhagen, Denmark, is a corporation organized under the laws of Denmark which on or since December 11, 1941, and prior to January 1, 1947 has been controlled by or a substantial part of the stock of which has been owned or controlled directly or indirectly by the aforesaid N. V. Edmund Wagenknecht's Handelmaatschappij, Clare Wagenknecht Stinnes, Sr., Hugo Stinnes, Ernst Stinnes, Otto Stinnes, and Hilde Fiedler and is and prior to January 1, 1947 was a national of a designated enemy country (Germany);
5. That the Atlantic Assets Corporation, is a corporation organized under the laws of the State of Delaware, which on or since December 11, 1941 and prior to January 1, 1947 has been controlled by or a substantial part of the stock of which has been owned or controlled directly or indirectly by the aforesaid Clare Wagenknecht Stinnes, Sr., Hugo Stinnes, Jr., Ernst Stinnes, Otto Stinnes, and Hilde Fiedler, and is and prior to January 1, 1947 was a national of a designated enemy country (Germany);
6. That the Lantica Trading Company, Limited, the last known address of which is London, England, is a corporation organized under the laws of England which on or since December 11, 1941 and prior to January 1, 1947 has been controlled by or a substantial part of the stock of which has been owned or controlled directly or indirectly by the aforesaid Atlantic Assets Corporation, Union Trading and Financing Co., Clare Wagenknecht Stinnes, Sr., Hugo Stinnes, Jr., Ernst Stinnes, Otto Stinnes, and Hilde Fiedler and is and prior to January 1, 1947 was a national of a designated enemy country (Germany);

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 AI-5347 OFFICE
 Entry of legal advisor
 File OAP General III
 Box 3

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 By EP NARA Date 3/7/00

ALM:GMC undp
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DEC 30 1964

Reb - Goss H
OAP - General

Mr. Ely Maurer
 Assistant Legal Adviser for
 Military and Economic Regional Affairs
 Department of State
 Washington, D. C. 20520

Dear Mr. Maurer:

Reference is made to your letter dated November 16, 1964, transmitting a copy of airmail A-147 of November 5, 1964 from the American Legation at Budapest.

It appears that the Hungarian Government is requesting information relating to the denial of applications of Jozsef Vass and Lasalo Nobel for divestment of vested properties. These matters are controlled by Public Law 285, approved August 9, 1955, 69 Stat. 562. Section 202(b) of said Act provides that:

"The net proceeds of any property which was vested in the Alien Property Custodian or the Attorney General after December 17, 1941, pursuant to the Trading With the Enemy Act, as amended, and which at the date of vesting was owned directly or indirectly by Bulgaria, Hungary, or Rumania, or any national thereof, shall after completion of the administration, liquidation, and disposition of such property pursuant to such Act, including the adjudication of any suits or claims with respect thereto under such Act, be covered into the Treasury, except that the net proceeds of any such property which the President or his designee shall determine was directly owned by a natural person at the date of vesting shall be divested * * *."

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The Office of Alien Property has consistently taken the position that cover accounts are not directly owned by the original depositor. In these cases, deposits were made by the Hungarian nationals in banks located in Europe, which banks then set up dollar deposits in the United States to cover their dollar liability to the Hungarian depositors. It is our position that the deposits in the American banks are directly owned by the European banks that made the deposits and not by the original Hungarian depositors in the European banks. Accordingly, such funds have been covered into the Treasury and placed in the Hungarian Claims Fund, which puts them outside the jurisdiction of the Office of Alien Property.

The General Bank for Trade of Valuables Company, Ltd., Budapest 40, Hungary, has been advised of this situation with respect to the funds deposited by Jozsef Vass. According to our records, Laszlo Nobel has never applied for the divestment of his funds.

Yours very truly,

JOHN W. DOUGLAS
Assistant Attorney General
Civil Division

By

Anthony L. Modelllo
Deputy Director
Office of Alien Property

Clear.

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DEPARTMENT OF STATE

AIRGRAM

11/22/1964

A-147

UNCLASSIFIED

NO.

2 HANGLING INDICATOR

TO

Department of State, WASHINGTON

11/22/1964 ANALYSIS & DISTRIBUTION

DAI Please

FROM

AmLegation BUDAPEST

DATE: November 5, 1964

SUBJECT:

Claims of the Hungarian Heirs of the late Jozsef VASS and
the late Dr. Laszlo NOBEL against the Office of Alien Property.

REF:

There is attached a copy of Note No. Sz/12/Va/21-1/1964, dated October 28, 1964, received from the Hungarian Ministry of Foreign Affairs on November 3, 1964, requesting the Legation to obtain information concerning the reason for which the Office of Alien Property declined the petitions of the Hungarian heirs of Jozsef Vass and of Laszlo Nobel to divest their vested properties.

The Department is requested in its discretion, to obtain the information requested by the Ministry, and to inform the Legation so that an appropriate reply can be made to the Ministry's Note. The Legation is informing the Hungarian Ministry of Foreign Affairs that its request has been referred to the Department for further action.

For the Charge d'Affaires, a.i.,:

Clifford H. Gross

Second Secretary of Legation

Enclosure:

Copy of Note No. Sz/12/Va/21-1/1964.

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FORM DS-323

 In Out

DRAFTED BY:

CONS:CHGross:LKG:ee

Nov 4, 1964

Contents and Classification Approved by
Richard W. Tims

Clearances:

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 Entry of legal advisor
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 Box 3

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 Authority XND009020
 By ED NARA Date 3/7/00

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In reply refer to
 L/MER

November 16, 1964

DAP - general

Dear Mr. Mondello:

I attach copy of self-explanatory airgram A-147 of November 5, 1964 from the American Legation at Budapest transmitting a request from the Hungarian Government requesting information relating to the denial of petitions of the Hungarian heirs of Jozsef Vass and Laszlo Nobel for divestment of their vested properties.

The Department would appreciate the views of your office as a basis for a reply to the Hungarian Government.

Sincerely yours,

Ely Maurer
 Assistant Legal Adviser
 for Military and Economic Regional Affairs

Enclosure:

Copy of airgram
 A-147 of November 5, 1964
 from Budapest.

Mr. Anthony L. Mondello,
 Chief, Office of Alien Property,
 Department of Justice,
 618 HOLC Building,
 Washington, D. C.

L:L/MER:EMaurer:mj
 11/12/64

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 File OAP General III
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OAP - General

12/3/64

The Department of State refers to the note dated November 16, 1964, No. 667, from the Embassy of Canada concerning "the benefits of the estate of one John Zimmerman, thought to be held by the Custodian of Alien Property".

The Department of State has received a letter dated December 1, 1964 from the Office of Alien Property, United States Department of Justice concerning this matter. The letter reads as follows:

"Reference is made to your letter of November 29, 1964, enclosing a note of November 16, 1964, with attached extract concerning the interest of Walter Deuchler, Jr. of Canada, as assignee of Walter Deuchler, Sr. in the estate of John Zimmerman, deceased, which was vested as German property under the Trading with the Enemy Act, 50 U.S.C.App. 1 et seq.

"John Zimmerman, a resident of Napa, California, died intestate on May 19, 1946. After probate of his estate, there remained for distribution the sum of \$7,373.73. There were no known heirs and, hence, the California court in probate distributed the funds to the State of California by decree of distribution, dated June 20, 1947. Pursuant to statute, the funds so distributed were deposited in the state treasury on January 26, 1948. On May 3, 1948, however, a claim on behalf of the German heirs of John Zimmerman deceased, was filed with the State Treasurer. By Vesting Order No. 10833, dated April 11, 1952, this Office vested the interests in the estate of the seven German heirs, Anna Maria Deuchler, Ludwig Heinrich Zimmerman, Rosa Metager, Anna Louise Bauer, Maria Frieda Meckarle, Julius Zimmerman and Elisa Harendorn. The interest of John Zimmerman's daughter, Lina Delman, a resident and citizen of Holland was not vested. On June 14, 1956, the following shares of the German heirs were received by this Office from the State Treasurer of the State of California, as Depository, in compliance with the Vesting Order:

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Name	Amount
Anna Maria Deuchler	\$2,188.62
Ludwig Heinrich Zimmermann	2,188.62
Rosa Metzger	364.78
Anne Louise Bauer	364.78
Maria Frieda Weeckerle	364.78
Julius Zimmermann	364.77
Elsa Hagedorn	<u>264.77</u>
	<u>\$6,201.12</u>

"Property vested by the Attorney General under the Trading with the Enemy Act becomes property of the United States and thus loses its blocked status under Executive Order 8389, as amended, and any applicable licensing regulation under the Executive Order which the Embassy may have referred to in its note becomes inoperative. However, vested property may only be released under the return provisions of the Act provided a claim was timely filed and certain requirements of eligibility satisfied. Section 33 of the Act provides in effect that any claim for the return of property vested under Vesting Order No. 18833 must have been filed with the Office of Alien Property on or before February 9, 1955. This Office is not authorized to waive or extend the statutory period for the filing of claims. Section 32(a)(1) of the Act authorizes the return of property to the person who was the owner thereof immediately prior to vesting or to the successor in interest of such owner by inheritance, devise, bequest, or operation of law, provided both the prevesting owner and his successor in interest meets certain requirements of eligibility. Section 32(a)(2)(B) of the Act provides, relative to eligibility, that property cannot be returned if such owner is an individual who, on or after December 7, 1941 and prior to March 8, 1946, was a citizen of and present in Germany, unless such individual, as a consequence of German laws, decrees or regulations discriminating against political, racial or religious groups, had at no time between December 7, 1941 and the date when such law, decree or regulation was abrogated, enjoyed full rights of citizenship under the law of Germany.

"Our records do not indicate that any claim was timely filed by or on behalf of Walter Deuchler, Jr., Walter Deuchler, Sr., Anna Maria Deuchler or any other beneficiary of the Estate of John Zimmermann, deceased, identified in Vesting Order No. 18833. However, had a claim been timely filed, it is unlikely that favorable action with respect thereto would have been possible under existing legislation in view of the German citizenship and residence of the beneficiaries of the Zimmermann estate on and after December 7, 1941 and the absence of any evidence that they were affected by the provisions of the Act relating to enemy oppression. In addition, Walter Deuchler, Jr., who appears to be ineligible for the return of vested property because of his residence in Germany during the war, would not, as an assignee, have qualified as a successor in interest within the meaning of Section 32(a)(1) of the Act. Accordingly, none of the proceeds of Vesting Order No. 18833 may be released by the Office of Alien Property".

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It is hoped that the information in the letter may be helpful in answering the inquiry made on behalf of Walter Beuchler, Jr. As can be seen the assets in question, are not blocked but vested, and are in an entirely different situation from those in the case of Joseph Saccoccia.

Department of State,

Washington, December 4, 1984

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PS 6-4 OAB-20/Beuchler, Walter, Jr.

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 By EP NARA Date 3/7/00

*All 3 paragraphs
 shall be
 put in OAI General*

PROPOSED REVISION OF DRAFT PARAGRAPH IN CARY MEMO OF MARCH 13, 1964:

"That, with respect to works first produced or published outside the United States of America, and presently owned by authors, copyright owners or proprietors who are nationals of the Federal Republic of Germany, and which: (1) were subject to copyright under the laws of the United States by nationals of Germany on or after September 3, 1939 and on or before December 31, 1948; or (2) were subject to renewal of copyright under the laws of the United States of America by nationals of Germany on or after September 3, 1939 and on or before December 31, 1948 and were never vested in the Alien Property Custodian of the United States Government; or (3) were subject to renewal of copyright under the laws of the United States of America by nationals of Germany on or after September 3, 1939 and on or before January 21, 1964 if vested in the Alien Property Custodian of the United States Government [and divested on January 21, 1963 or, if vested and divested before January 21, 1963, were subject to renewal of copyright under the laws of the United States of America by nationals of Germany on or after September 1939 and on or before the end of one year after divestment], there has existed such disruption and suspension of [communication] facilities essential to compliance with conditions and formalities prescribed with respect to such works by the copyright law of the United States of America as to bring such works within the terms of Section 9(b) of the aforesaid title 17, and that, accordingly, the time within which compliance with such conditions and formalities may take place is hereby extended with respect to such works for one year after the date of this proclamation."

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FORM DS-10 4.1-55 DEPARTMENT OF STATE REFERENCE SLIP		DATE March 9, 1964	
TO: Mr. J. NAME OF MILITARY		ORGAN. CODE	INITIALS
1. ✓ Mr. ELY KAISER		1/608 5007	
2. Miss Sylvia Nilsson		1/1 5020	
3. Mr. ALLEN MARCHANDSEN		1/8 6020	
4.			
5.			
APPROVAL		NOTE AND FORWARD (if or now)	
AS REQUESTED		<input checked="" type="checkbox"/> NOTE AND RETURN	
COMMENT		PER CONVERSATION	
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<p>Preliminary drafts.</p> <ul style="list-style-type: none"> ① Note Ger Arab to Secy State ② US note. Aged Secy to Ger Arab ③ Proclamation <p>Middle East - 17/03/64 - 48</p> <p>1/608</p>			
FROM (NAME AND ORGANIZATION)		ROOM NO 2 AND BLDG.	
SIGNATURE Odore Uzajkowski		PHONE NUMBER 4775	

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 Authority UNDO09020
 By EP NARA Date 3/7/00

DRAFT

The Embassy of the Federal Republic of Germany

Sir:

I have the honor to inform you that the attention of the Federal Republic of Germany has been invited to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into law by the act of Congress approved July 30, 1947 (61 Stat. 652). This law provides for extending the time for the fulfillment of the conditions and formalities prescribed by the copyright laws of the United States in the case of authors, copyright owners, or proprietors of works first produced or published outside the United States of America who are or may have been temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential for their compliance.

My Government has requested me to inform you that, by reason of the conditions arising out of World War II, German authors, copyright owners, and proprietors have lacked the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright. This situation existed for several years since September 3, 1939.

It is the desire of the Government of the Federal Republic of Germany that, in accordance with the procedure provided in the above-mentioned paragraph (b), section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of

nationals

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nationals of the Federal Republic of Germany whose works are eligible to copyright in the United States.

Further, pursuant to section 41(c) of the Trading With the Enemy Act, as amended by Public Law 87-386 approved October 22, 1962 (76 Stat. 1116), all those copyrights, claims of copyrights, rights to copyrights, and rights to copyright renewals, formerly owned by German nationals and remaining vested in the Alien Property Custodian or the Attorney General of the United States under the provisions of the said Act as amended, except for a designated few, were divested as a matter of grace and the persons entitled thereto did on January 21, 1963 succeed to the rights, privileges, and obligations arising out of such copyright interests subject to the rights of licensees, assignees, and the United States Government mentioned in the said Public Law.

I wish to point out that prior to the above divestments on January 21, 1963 many of the vested copyrights involved expired in their first term and were not renewed by the administering agency for a second or renewal term.

With the view of assuring the Government of the United States of America of the existence in the Federal Republic of Germany of reciprocal copyright protection for authors, copyright owners and proprietors who are citizens of the United States, my Government has requested me to invite your attention to the copyright agreement between Germany and the United States of America signed at Washington, D.C. on January 15, 1892, and to the German Law of May 16, 1922 for the Protection of Copyright of Nationals of the United States of America (Reichsgesetzblatt, Part II,

1922,

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1922, page 129). Further, a letter from the Chancellor of the German Federal Republic to the Chairman of the Allied High Commission, dated February 6, 1950, indicated that the German Federal Republic continues to consider such agreement as being in force and that the Law of May 16, 1922 continues to apply. The letter established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America.

Also, pursuant to Article 2 of the Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nations and Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were restored to such United States nationals or their legal successors. Further, pursuant to Article 5 of Law No. 8, any literary or artistic right in Germany owned by a United States national at the commencement of or during the state of war was upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came into existence, and September 30, 1950; and United States authors accordingly have suffered no prejudice to their rights in Germany because of the war.

Therefore the Government of the Federal Republic of Germany would appreciate it if the President of the United States would proclaim, in accordance

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accordance with the aforesaid title 17 of the United States Code, that by reason of the disruption or suspension of facilities during several years of the time after September 3, 1939, nationals of the Federal Republic of Germany who are authors, copyright owners, or proprietors of works first produced or published outside the United States and subject to copyright or renewal of copyright under the laws of the United States were temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, and that the time within which compliance with the conditions and formalities may be fulfilled be appropriately extended.

Accept, Sir, the assurances of my highest consideration.

OT:SP:TCza:jlcowski:fms
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10/4/65

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AI-5347 OFFICE

Entry of legal advisor

File OAP General III

Box

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Authority XND00920

By EP

NARA Date 3/7/00

Excellency:

I have the honor to acknowledge the receipt of your note of today's date in which you refer to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into positive law by the act of Congress approved July 30, 1947.

You state that for several years after September 3, 1939, by reason of conditions arising out of World War II, authors, copyright owners, and proprietors who are nationals of the Federal Republic of Germany lacked the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright.

You express the desire of the Government of the Federal Republic of Germany that, in accordance with the procedure provided in the above-mentioned paragraph (b), Section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of nationals of the Federal Republic of Germany whose works are eligible to copyright in the United States of America.

You assure my Government of the existence in the Federal Republic of Germany of reciprocal copyright protection for American authors, copyright owners, and proprietors. You cite the circumstances under which American authors have suffered no prejudice to their rights in the Federal Republic of Germany because of the war. You add that the German copyright laws and our copyright agreement of 1892 continue in force.

I have the honor to inform you that, with a view to giving effect to the extension proposed in your note and on the basis of the assurances set forth

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set forth in your note, the President today has issued a proclamation, a copy of which is annexed hereto, declaring and proclaiming, pursuant to the provisions of paragraph (b), section 9 of the aforesaid title 17 that there has existed during several years after September 3, 1939 such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America as to bring the following works within the terms of the aforesaid title 17: (1) works of nationals of the Federal Republic of Germany which were first produced or published outside the United States of America on or after September 3, 1939 and prior to the effective date of the Proclamation and subject to copyright under the laws of the United States of America, and (2) works of citizens of the Federal Republic of Germany subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939 and prior to the effective date of the Proclamation. Accordingly the President has proclaimed that the time within which compliance with such conditions and formalities may take place is extended with respect to such works for one year after the date of the proclamation. The proclamation provides further that it shall be understood that the term of copyright in any case is not and cannot be altered or affected by the President's action. The proclamation provides finally that the extension is subject

to the

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Entry of legal advisor
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Box 3

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Authority XND009020
By EP NARA Date 3/7/00

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to the provision of the said title 17 to the effect that no liability shall be incurred for lawful uses of the copyrighted works involved during certain prescribed periods set forth in the proclamation.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

/s/

Enclosure:

Copy of proclamation.

OT:EP:TCzajkowsk:fac
2/21/64

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 Entry of legal advisor
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 Authority XND00920
 By EP NARA Date 3/7/00

COPYRIGHT EXTENSION: GERMANY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
A PROCLAMATION

WHEREAS the President is authorized, in accordance with the conditions prescribed in section 9 of title 17 of the United States Code, which includes the provisions of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of September 25, 1941, 55 Stat. 732, to grant an extension of time for fulfillment of the conditions and formalities prescribed by the copyright laws of the United States of America, with respect to works first produced or published outside the United States of America and subject to copyright or to renewal of copyright under the laws of the United States of America, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

WHEREAS satisfactory official assurances have been received that since April 15, 1892, citizens of the United States have been entitled to obtain copyright in Germany for their works on substantially the same basis as citizens of Germany without the need of complying with any formalities, provided with works secured protection in the United States; and

WHEREAS, pursuant to Article 2 of the Law No. 6, Industrial, Literary and Artistic Property Rights of Foreign Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were upon request to be restored to such United States nationals or his legal successors; and

WHEREAS,

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WHEREAS, pursuant to Article 5 of the aforesaid law, any literary or artistic property right in Germany owned by a United States national at the commencement of or during the state of war between Germany and the United States of America, was, upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came in existence, and September 30, 1949; and

WHEREAS, pursuant to section 41(c) of the Trading With the Enemy Act, as amended by Public Law 87-546, approved October 22, 1962, 76 Stat. 1116, all these copyrights, claims of copyrights, rights to copyrights, and rights to copyright renewals, formerly owned by German nationals and remaining vested in the Alien Property Custodian or the Attorney General under the provisions of the said Trading With The Enemy Act, as amended, except for a designated few, were divested as a matter of grace and the persons entitled thereto did, on January 21, 1963, succeed to the rights, privileges and obligations arising out of such copyrights subject to the rights of licensees, assignees, and the United States Government mentioned in the said Public Law; and

WHEREAS, by virtue of a proclamation by the President of the United States of America dated May 25, 1922, 42 Stat. 2271, citizens of Germany were entitled to the benefits of the acts of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of December 18, 1919, 41 Stat. 369, including the benefits of section (e) of the aforementioned title 17 of the United States Code; and

WHEREAS, a letter of February 6, 1950 from the Chancellor of the Federal Republic of Germany to the United States High Commissioner for Germany established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America;

NW,

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 By EP NARA Date 3/7/00

- 3 -

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid title 17, do declare and proclaim:

That with respect to (1) works of nationals of the Federal Republic of Germany which were first produced or published outside the United States of America on or after September 3, 1939, and subject to copyright under the laws of the United States of America, and (2) works of nationals of the Federal Republic of Germany subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939, there has existed such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America as to bring such works within the terms of section 9 (b) of the aforesaid title 17, and that, accordingly, the time within which compliance with such conditions and formalities may take place is hereby extended with respect to such works for one year after the date of this proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation, and that, as provided by the aforesaid title 17, no liability shall attach under the said title for lawful uses made or acts done prior to the effective date of this proclamation in connection with the above-described works, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully entered into prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation or performance of any such works.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this day of , in
 the year of our Lord nineteen hundred and sixty-four and of the
 Independence of the United States of America the one hundred and eighty-seventh.

By the President:

Secretary of State

329972

RG 59
AI-5347 OFFICE
Entry of legal advisor
File OAP General III
Box 3

DECLASSIFIED
Authority XND009020
By EP NARA Date 3/7/00

DRAFT

The Embassy of the Federal Republic of Germany

Sir:

I have the honor to inform you that the attention of the Federal Republic of Germany has been invited to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into positive law by the act of Congress approved July 30, 1947 (61 Stat. 652), which provides for extending under conditions of reciprocity in copyright matters the time for the fulfillment of the conditions and formalities prescribed by the copyright laws of the United States in the case of authors, copyright owners, or proprietors of works first produced or published outside the United States of America who are or may have been temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential for their compliance.

My Government has requested me to inform you that, by reason of the conditions arising out of World War II, German authors, copyright owners, and proprietors have lacked, during several years of the time since September 3, 1939 the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright.

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File OPP Gierke III
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Authority X NDO09020
By EP NARA Date 3/7/00

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are citizens of the United States, my Government has requested me to invite your attention to the 1892 Copyright agreement between the Reich and the United States of America concerning the Reciprocal Protection of Copyrights, and to the German Law of May 16, 1922 for the Protection of Copyright of Nationals of the United States of America (Reichsgesetzblatt, Part II, 1922, page 129.). Further, a letter from the Chancellor of the German Federal Republic to the Chairman of the Allied High Commission, dated February 6, 1950, indicated that the German Federal Republic continues to consider this Agreement as being in force and that this Law continues to apply. The letter established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America.

Also, pursuant to Article 2 of the Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were restored to such United States nationals or their legal successors. United States authors accordingly have suffered no prejudice in their rights in Germany because of the war.

The Government of the Republic of Germany would, therefore, greatly appreciate it if the President of the United States would proclaim, in accordance with the aforesaid title 17 of the United States Code, that by reason

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By EP NARA Date 3/7/00

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reason of the disruption or suspension of facilities during several years of the time after September 1, 1939, citizens of the Federal Republic of Germany who are authors, copyright owners, or proprietors of works first produced or published outside the United States and subject to copyright or renewal of copyright under the laws of the United States were temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, and that the time within which compliance with the conditions and formalities may be fulfilled be appropriately extended.

Accept, Sir, the assurances of my highest consideration.

OT:EP:TCmajkowsk1:fas 10/4/63
10/15/63

329975

RG 59
AI-5397 OFFICE
Entry of legal advisor
File OAP General III
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Authority XIND009020
By ED NARA Date 3/7/00

DRAFT

109/63

Excellency:

I have the honor to acknowledge the receipt of your note of today's date in which you refer to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into positive law by the act of Congress approved July 30, 1947, which authorizes the President to extend by proclamation the time for compliance with the conditions and formalities prescribed by the copyright laws of the United States of America with respect to works first produced or published outside the United States of America and subject to copyright under the laws of the United States of America when the authors, copyright owners, or proprietors of such works are or may have been temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential to such compliance.

You state that by reason of conditions arising out of World War II authors, copyright owners, and proprietors who are ~~natural~~ ^{natural} citizens of the Federal Republic of Germany lacked during several years of the time after September 3, 1939, the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright.

You express the desire of the Government of the Federal Republic of Germany that, in accordance with the procedure provided in the above-mentioned paragraph (b), section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of ~~natural~~ ^{natural} citizens of the Federal Republic of Germany whose works are eligible to copyright in the United States of America.

With a view

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 A1-5394 Office
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 By EP NARA Date 3/7/00

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With a view to assuring the Government of the United States of America
 of the existence in the Fed - Rep - of Ger - of
reciprocal protection for authors, copyright owners, and proprietors who
Copyright
 are citizens of the United States of America, you invite attention to the
 circumstances and [very] favorable legislation in the Federal Republic of
 Germany, under which as a consequence, American authors have suffered no
 prejudice to their rights in the Federal Republic of Germany because of the
 war. You add that the German copyright laws and ordinance to which you
 refer continue to remain in force.

I have the honor to inform you that, with a view to giving effect
 to the extension proposed in the note under acknowledgement, the President today
 has issued by a proclamation, a copy of which is annexed hereto, declaring
 and proclaiming, pursuant to the provisions of paragraph (b), section 9
 of the aforesaid title 17 on the basis of the assurances set forth in your
 note that as regards (1) works of citizens of the Federal Republic of
 Germany which were first produced or published outside the United States of
 America on or after September 3, 1939 and prior the effective date of the
 Proclamation and subject to copyright under the laws of the United States
 of America, and (2) works of citizens of the Federal Republic of Germany
 subject to renewal of copyright under the laws of the United States of
 America on or after September 3, 1939 and prior to the effective date of
 the Proclamation, there has existed during several years of the aforementioned
 period such disruption or suspension of facilities essential to compliance
 with the

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with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America as to bring such works within the terms of the aforesaid title 17, and that accordingly the time within which compliance with such conditions and formalities may take place is extended with respect to such works for one year after the date of the proclamation. The proclamation provides that it shall be understood that the term of copyright in any case is not and cannot be altered or affected by the President's action and that the extension is subject to the proviso of the said title 17 that no liability shall attach thereunder for lawful uses made or acts done prior to the effective date of that proclamation in connection with the works to which it relates, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully entered into prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

/a/

Enclosure:

Copy of proclamation.

OT: EP:TCmajkowski:fas
10/9/63

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UNCLASERED DRAFT

BEST COPY AVAILABLE
James F. Furman
FBI - DC

Harvey J. Winter, EP
Department of State

MAXXXXXXXX

George D. Cary
Deputy Register of Copyrights

German Extension-of-Time Proclamation.

You may recall that during the meeting in your office on February 3, 1964, on the subject of the German proclamation, I suggested that the Department consider the advisability of revising the present draft text of the proclamation in order that a cutoff date might be inserted. Since that date, I have discussed that suggestion with others in the Office, and I find that the sentiment is unanimous that it would be undesirable to issue the proclamation without such a date.

Not only does the absence of the cutoff date cast considerable doubt on the basis for the issuance of the proclamation, but in effect it affords to nationals of a former enemy country far greater rights than have been extended to nationals of friendly Allied powers.

You will recall that in the case of the Austrian proclamation, the cutoff date was one year following the coming into force of the Austrian state treaty. The Copyright Office had urged in that instance an earlier cutoff date and only reluctantly agreed to the July 27, 1956 date, on the understanding that it would not constitute a precedent when

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Harvey J. Winter

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RECORDED BY [unclear]

the time came for the issuance of a German extension-of-time proclamation. While theoretically the contention could be made that in the case of Austria there may have been a disruption of communications facilities caused by the Soviet occupation, at least until the renunciation of Austrian sovereignty, the same factor can hardly be found to exist in the case of Germany. *From the beginning of the continuity in copyright matters, the Allied occupation forces were of great assistance,* and this Office, since the termination of hostilities, received and registered many renewal applications of German copyrights notwithstanding the fact that the legal title thereto may have vested in the United States Government. One reason such action was taken resulted from the knowledge that the Office of Alien Property did not consider that it had the facilities to file renewal applications on behalf of each vested German copyright. The action of this Office in making registrations over the years seems to effectively refute the use of a date subsequent to the return of the vested copyrights under P. L. 87-864.

→ *For example, JEIA Instruction No. 24, issued by the Joint Export-Import Agency, Frankfurt am Main, September 20, 1948, not only includes procedures for filing copyright applications

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Harvey J. Winter

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in the United States but also information as to the methods by which necessary arrangements can be made to pay necessary fees in United States dollars.

As an appropriate cutoff date, I suggest the use of one year from December 31, 1947, the date on which President Truman proclaimed the end of hostilities growing out of World War II. Such a termination date would thus permit renewal applications to be filed for all copyrights of German nationals which expired by reason of inability to renew for a period somewhat in excess of nine years. To include a later date than suggested above would constitute a reward to those whose failure to renew resulted from causes other than disruption of communications facilities. The termination date of December 31, 1946, would thus be in reasonable alignment with the provision in Article 5 of Law No. 8, promulgated October 27, 1949, by the Allied High Commission, which in effect permitted the filing of a request for the return of vested American copyrights prior to October 3, 1950.

In addition to the cutoff date problem, the situation could arise where the original German author may be deceased and so, strictly speaking, his work possesses no nationality. Under the language of the proposed draft proclamation, this Office might have to determine in such case that the renewal

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Harvey J. Winter

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KATHY K. COOK

application could not be registered, since it was not a work of a citizen of the Federal Republic of Germany. To provide for renewal registration of copyright in such works, which are presently owned by an heir or assignee of the German owner, I am suggesting a slight modification of the proclaiming clause, as will be indicated below.

Should an occasion arise where, at the time of first publication of the work, the author was a citizen of a state other than Germany but subsequently became, and presently is, a citizen of the Federal Republic of Germany, the question would naturally arise concerning the applicability of the proclamation to such a situation. The present language of the proclamation would seem to apply to such cases, which is an unintended result. Accordingly, I am suggesting also a further slight modification to insure the interpretation that the proclamation is not intended to produce such a result.

If the above suggestion meets with your approval, the proclaiming clause of the draft proclamation could be modified to read as follows:

"That with respect to (1) works owned or created by citizens of the Federal Republic of Germany, who at the time of first publication were nationals of Germany, and which were first produced or published outside the United States of America on or after September 3, 1939, and subject to copyright under the laws of

WHEREAS,

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 Authority UNDO09020
 By ED NARA Date 3/7/00

Harvey J. Winter

-5-

NANCY J. WINTER

the United States of America, and (2) works owned
or created by citizens of the Federal Republic of
 Germany, who at the time of first publication were
nationals of Germany, and subject to renewal of
 copyright under the laws of the United States of
 America on or after September 3, 1939, and prior to
December 31, 1948, there has existed such disruption
 and suspension of communication facilities essential
 to compliance with conditions and formalities pre-
 scribed with respect to such works by the copyright
 laws of the United States of America as to bring
 such works within the terms of Section 9(b) of the
 aforesaid title 17, and that, accordingly, the time
 within which compliance with such conditions and
 formalities may take place is hereby extended with
 respect to such works for one year after the date
 of this proclamation." (New language underscored.)

While the following matters do not relate to the
 wording of the notes or the proclamation, it is foreseeable
 that in a few sensitive areas this Office will have to
 interpret the terms of the proclamation. In order that such
 interpretation may be coordinated with current foreign
 policy, I set forth below our proposed action, so that we

WHEREAS,

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Harvey J. Winter

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REMARKS

may be advised if we have made what might be an inappropriate evaluation.

Since the Federal Republic of Germany was not in existence on September 3, 1939 and for a period following that date, the question will undoubtedly arise concerning the registrability of application by an author who at the time of first publication was a citizen of the German Reich. In such cases, this Office realizes the political difficulty of attempting to provide for such contingencies in the proclamation, and so in those circumstances would interpret the term "Federal Republic of Germany" to include the former German Reich, except in the situation mentioned below.

In some instances, this Office may receive applications for registration under the proposed proclamation from East Germany. The decision as to whether registration of such applications is in order is not without difficulty. However, I am setting forth our tentative understanding of what could be accomplished in such instances.

Inasmuch as under Article 23 of the Bonn constitution the Federal Republic of Germany specifically admits that "for the time being" its jurisdiction does not extend to those "Länder" geographically located in East Germany, it would seem that the reciprocal agreement to be entered into does not include the present territory of East Germany. Thus, if

WHEREAS,

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Harvey J. Winter

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XND009020

a renewal application were received from East Germany where the original author was a national of "Germany" in the "German Reich" and the claimant were shown as being a citizen of the "German Democratic Republic," it would seem that such application must be rejected, since the reciprocal agreement applies only to the Federal Republic of Germany and does not include by its terms those living in the "German Democratic Republic." However, the Department has previously taken the position that registration of an application by a national of "Germany" was proper regardless of the territorial location of the national, and it would seem to follow that if the same application mentioned above listed the nationality of the claimant as "German," registration would be appropriate even though, for example, it was clear that the domicile of the applicant was in the territory known as East Germany.

While these latter matters are not directly involved in the language of the notes and proclamation, it may well be that the German Embassy representative might raise those questions during our discussions, and it would appear advisable for us to have a coordinated policy with respect thereto.

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 Authority XND00920
 By EP NARA Date 3/7/00

HHR - Mr. Mauver

3P/SRS

Pm 3827

NS 1117

E

TO : G-2 Mr. Johnson

July 27, 1963

THROUGH : S/S

FROM : E - Mr. Frank

SUBJECT : Copyright Proclamation Regarding Germany

In accordance with Department Circular 176, authorization is requested to negotiate and sign an exchange of notes with the German Embassy as the basis for a Presidential Proclamation granting to German authors and composers, who were prevented by the war or related matters from either filing for copyright or renewing existing copyrights, an extension of time for fulfillment of the requirements of United States Copyright Law. A draft Presidential Proclamation is attached (Tab A).

The German Embassy in a note of April 18, 1963 (Tab B) asked for consideration of this matter in view of the enactment of Public Law 87-866, effective January 21, 1963, which automatically divested or returned to their former owners, or successors in interest, most copyrights of former enemy nationals seized by the Government under World War II powers. The copyright interests specifically exempted from return were mostly the works of a few high Nazi officials, as for example, Hitler's "Mein Kampf." No monetary return in the form of compensation or accumulated royalties is involved.

The Department and the Copyright Office--the two principal interested agencies--agree that a Proclamation for extension of time would be desirable. Section 9(b) of the United States Copyright Law (Title 17, U.S. Code) authorizes the President to grant such extensions, under conditions of substantially equal treatment, whenever authors or copyright proprietors have been unable to comply with the formalities of law because of disruption or suspension of facilities essential for such compliance. The notes to be exchanged would establish that the conditions of reciprocity required by law do in fact exist.

Recommendation

It is requested that you authorize the negotiation of notes with the German Embassy as the basis for the issuance of a Presidential Proclamation on this

matter,

WHEREAS,

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matter, and that you delegate to the Assistant Secretary for Economic Affairs, or his Deputy, authority to conclude such an exchange of notes, subject to clearance of the text by the offices concerned in EUR, L, and by the Copyright Office.

Concurrentes

OT EUR L/E-Mr. Mendelsohn L/T-Miss Nilson

CER-Mr. Stalder L/EUR H Copyright Office-Mr. Cary

Attachments:

1. Draft Proclamation (Tab A).
2. Note of April 18 (Tab B).

JUL 2 6 1963
/s/ U. Alexis Johnson

Approved _____

Disapproved _____

OT:BP:HJW:TCmajkowski:aks
 7/23/63

WHEREAS,

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DECLASSIFIED
 Authority NND00920
 By EP NARA Date 3/7/00

DRAFT
 March 26, 1964

3/26/64

COPYRIGHT EXTENSION: GERMANY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the President is authorized, in accordance with the conditions prescribed in section 9 of title 17 of the United States Code, which includes the provisions of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of September 25, 1941, 55 Stat. 732, to grant an extension of time for fulfillment of the conditions and formalities prescribed by the copyright laws of the United States of America, with respect to works first produced or published outside the United States of America and subject to copyright or to renewal of copyright under the laws of the United States of America, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

WHEREAS satisfactory official assurances have been received that since April 15, 1892, citizens of the United States have been entitled to obtain copyright in Germany for their works on substantially the same basis as citizens of Germany without the need of complying with any formalities, provided such works secured protection in the United States; and

WHEREAS, pursuant to Article 2 of the Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nationals and Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were, upon request made prior to October 3, 1950, to be restored to such United States nationals or their legal successors; and

WHEREAS,
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WHEREAS, pursuant to Article 5 of the aforesaid law, any literary or artistic property right in Germany owned by a United States national at the commencement of or during the state of war between Germany and the United States of America, was, upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came in existence, to September 30, 1949; and

WHEREAS, by virtue of a proclamation by the President of the United States of America dated May 25, 1922, 42 Stat. 2271, citizens of Germany are and have been entitled to the benefits of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of December 18, 1919, 41 Stat. 369, including the benefits of section(s) 1 of the aforementioned title 17 of the United States Code; and

WHEREAS, a letter of February 6, 1950 from the Chancellor of the Federal Republic of Germany to the United States High Commissioner for Germany established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America;

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid title 17, do declare and proclaim:

That with respect to works first produced or published outside the United States of America: (1) where the work was subject to copyright under the laws of the United States of America on or after September 3, 1939 and on or before May 5, 1956, by an author or other owner who was then a citizen of Germany; or (2) where the work was subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939 and on or before May 5, 1956, by an author or other person specified in sections 24 and 25 of the aforesaid title 17 who was then a citizen of Germany, there has existed during several years of the

aforementioned

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 By EP NARA Date 3/7/00

- 3 -

aforementioned period such disruption and suspension of facilities essential to compliance with conditions and formalities prescribed with respect to such works by the copyright law of the United States of America as to bring such works within the terms of section 9(b) of the aforesaid title 17 and that, accordingly, the time within which persons who are presently citizens of the Federal Republic of Germany may comply with such conditions and formalities with respect to such works is hereby extended for one year after the date of this proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation, and that, as provided by the aforesaid title 17, no liability shall attach under the said title for lawful uses made ex ante deo prior to the effective date of this proclamation in connection with the above-described works, or with respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation or performance of any such works.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this _____ day of _____, in the year of our Lord nineteen hundred and sixty-four, and of the Independence of the United States of America the one hundred and eighty-seventh.

By the President:

Secretary of State

329990

RG 59
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 File OAP General III
 Box 3

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 Authority XND009020
 By CP NARA Date 3/7/00

NY
 March 26, 1961.

45
 ER
 ER
 ER

Excellency:

I have the honor to acknowledge the receipt of your note of today's date in which you refer to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into positive law by the act of Congress approved July 30, 1947.

You state that for several years after September 3, 1939, by reason of conditions arising out of World War II, authors, copyright owners, and proprietors who were nationals of Germany lacked the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright.

You express the desire of the Government of the Federal Republic of Germany, that, in accordance with the procedure provided in the above-mentioned paragraph (b), Section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of nationals of the Federal Republic of Germany whose works are eligible to copyright in the United States of America.

You assure my Government of the existence in the Federal Republic of Germany of reciprocal copyright protection for American authors, copyright owners, and proprietors. You cite the circumstances under which American authors have suffered no prejudice to their rights in the Federal Republic of Germany because of the war. You add that the German copyright laws and our copyright agreement of 1892 continue in force.

I have the honor to inform you that, on the basis of the assurances set forth in your note, the President today has issued a proclamation, a copy of which is annexed hereto, pursuant to and in accordance with the provisions of paragraph (b), section 9 of the aforesaid title 17, giving effect to the extension proposed in your note.

Accept,

329991

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- 2 -

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

/s/

Enclosure:

Copy of proclamation.

329992

RG 59
 A1-5397 OFFICE
 Entry legal advisor
 File OAP General III
 Box 3

DECCLASSIFIED
 Authority XND009020
 By EP NARA Date 3/7/00

DRAFT
 March 26, 1965

The Embassy of the Federal Republic of Germany

Sir:

I have the honor to inform you that the attention of the Federal Republic of Germany has been invited to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into law by the act of Congress approved July 30, 1947 (61 Stat. 652). This law provides for extending the time for the fulfillment of the conditions and formalities prescribed by the copyright laws of the United States in the case of authors, copyright owners, or proprietors of works first produced or published outside the United States of America who are or may have been temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential for their compliance.

My Government has requested me to inform you that, by reason of the conditions arising out of World War II, German authors, copyright owners, and proprietors of works subject to copyright or to renewal of copyright under the laws of the United States have lacked the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright. This situation existed for several years since September 3, 1939.

It is the desire of the Government of the Federal Republic of Germany that, in accordance with the procedure provided in the above-mentioned paragraph (b), section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of nationals of the Federal Republic of Germany whose works are eligible to copyright in the United States.

329993

With

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 By EP NARA Date 3/7/00

- 2 -

With the view of assuring the Government of the United States of America of the existence in the Federal Republic of Germany of reciprocal copyright protection for authors, copyright owners and proprietors who are citizens of the United States, my Government has requested me to invite your attention to the copyright agreement between Germany and the United States of America signed at Washington, D. C. on January 15, 1892, and to the German Law of May 18, 1922 for the Protection of Nationals of the United States of America (Reichsgesetzblatt, Part II, 1922, page 129). Further, a letter from the Chancellor of the German Federal Republic to the Chairman of the Allied High Commission, dated February 6, 1950, indicated that the German Federal Republic continues to consider such agreement as being in force and that the Law of May 18, 1922 continues to apply. The letter established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America.

Also, pursuant to Article 2 of Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nations and Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were, upon request made prior to October 3, 1950, restored to such United States nationals or their legal successors. Further, pursuant to Article 5 of Law No. 8, any literary or artistic right in Germany owned by a United States national at the commencement of or during the state of war was, upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came into existence, to September 30, 1949; and United States authors accordingly have suffered no prejudice to their rights in Germany because of the war.

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A1-5347 OFFICE

Entry of legal advisor

File OAP General III

Box

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Authority UNDO09020

By EP

NARA Date 3/7/00

- 3 -

Therefore the Government of the Federal Republic of Germany would appreciate it if the President of the United States would proclaim, in accordance with the aforesaid title 17 of the United States Code, that, by reason of the disruption or suspension of facilities during several years of the time after September 3, 1939, nationals [of the Federal Republic] of Germany who were authors, copyright owners, or proprietors of works first produced or published outside the United States and subject to copyright or renewal of copyright under the laws of the United States were temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, and that the time within which compliance with the conditions and formalities may be fulfilled is appropriately extended. *and extend the period of time*
Accept, Sir, the assurances of my highest consideration.

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By EP NARA Date 3/7/00

That with respect to works first produced or published outside the United States of America (1) where the work was subject to copyright under the laws of the United States of America on or after September 3, 1939 and on or before May 5, 1956, by an author or other owner who was then a citizen of Germany; ~~or~~ ^{Kee} (2) where a work was subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939 and on or before May 5, 1956, by an author or other person specified in sections 24 and 25 of the aforesaid title 17 who was then a citizen of Germany; there has existed such disruption and suspension of ~~essential~~ facilities essential to compliance with conditions and formalities prescribed with respect to such works by the copyright law of the United States of America as to bring such works within the terms of section 9(b) of the aforesaid title 17 and that, accordingly, the time within which persons who are presently citizens of the Federal Republic of Germany may comply with such conditions and formalities with respect to such works is hereby extended for one year after the date of this proclamation.

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By EP NARA Date 3/7/00

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Alternative I

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3/24/64

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That, with respect to works first produced or published outside the United States of America:

- (1) Where the work was subject to copyright under the laws of the United States of America on or after September 3, 1939 and on or before December 31, 1948, by an author or other owner who was then a citizen of Germany;
- (2) Where the work was subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939, or on or before December 31, 1948, by an author or other person specified in sections 24 and 25 of the aforesaid title 17 who was then a citizen of Germany, provided the copyright in such work was never vested in the United States Government [or, if vested, ownership of the renewal copyright during said period would have been unaffected by such vesting]; or
- (3) Where the work was subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939 and on or before January 21, 1964, by an author or other person specified in sections 24 and 25 of the aforesaid title 17 who was then a citizen of Germany, provided the copyrights in such works were vested in the United States Government [and ownership of the renewal copyright during said period would have been affected by such vesting];
y, C|R office
considering
top priority
to clearance
in brackets,
in my
aggression.
S. Tucker
 There has existed such disruption and suspension of facilities essential to compliance with conditions and formalities prescribed with respect to such works by the copyright law of the United States of America as to bring such works within the terms of section 9(b) of the aforesaid.

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Authority XND09020
By EP NARA Date 3/7/00

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title 17 and that, accordingly, the time within which persons who are presently citizens of the Federal Republic of Germany may comply with such conditions and formalities with respect to such works is hereby extended for one year after the date of this proclamation.

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Entry of legal advisor
File OAP General III
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Authority XIND00920
By EP NARA Date 3/7/00

Tuesday February 26, 1963

FEDERAL REGISTER

Gratitudine
di Giovanni Battista

Title 8 - ALIENS AND NATIONALITY

Chapter II—Office of Alien Property Department of Justice

PART 507—PATENTS, TRADE-MARKS AND COPYRIGHTS

Foreign-Owned Interest in Work Subject to Copyright

In order to restate in more current form the scope of restrictions covering copyright property for former enemy countries and nationals thereof and to effect a further release of present restrictions with respect to some classes of such property consistent with the requirements of Public Law 87-846, approved October 22, 1962, there are prescribed certain amendments as set forth below. Since no additional requirements are imposed on the public, it is hereby found that notice, hearing, and suspension or applicability are unnecessary.

Section 507-70 of this chapter contains certain prohibitions with respect to copyright property of Germany and nationals thereof. This section is now to be revoked. Section 507-71 is amended to include Germany and nationals thereof in the provisions relating to other foreign countries and their nationals.

Accordingly there is hereby revoked
Section 507-70 Works
Germany and
subject to cancellation of
nationalization thereof and

the following method of lead gas

§ 507-71a. Authorizing certain transactions respecting foreign-owned interests in works subject to copyright.

(g) Notwithstanding § 51-211a of this chapter, all transactions which relate to interests in works owned by foreign countries or nationals thereof are authorized under the Trading With the Enemy Act as amended (50 U.S.C. Ann. and Sup. L-43). *Provided*, That nothing in this section licenses the payment or receipt of any funds or credits with respect to works to, by, or on behalf of any designated foreign country or national thereof, except to the extent licensed by Part 51 of this chapter.

(B) The term "designated foreign country" shall mean a country designated in Executive Order 8389, 3 CFR, 1943 Cum. Supp., as amended, and the term "national" shall have the meanings prescribed in section 5 of Executive Order 8389, 3 CFR, 1943 Cum. Supp., as amended, as follows:

(d) The term "work" shall include literary and artistic creations copyrighted or copyrightable under the statutory law of the United States, or in which there are literary or artistic property rights under the common law of the several states of the United States, and all rights arising under the statutory and common law of the United States and the several

artistic creation such as for example but not by way of limitation rights to translate to make any version to dramatize to convert into a novel or other non-dramatic version to arrange or adapt to deliver or authorize delivery in public to perform or authorize performance in public to transmit or exhibit by radio television motion picture or other means to make any transcription or record in any manner or by any method to print reprint publish copy or vend and to obtain statutory copyrights or renewals in all forms and versions of the literary and artistic creation.

(d) The term "Interest" in a work shall mean ownership, part ownership or claim of ownership, in whole or in part of the work, and any right, license, privilege, or property in or to or with respect to such work, and any title or interest in, to or under any contract or other instrument pertaining to a work, and any royalty share of profits, license fees or other emolument or compensation reserved with respect thereto. "Interest" shall also include, but not by way of limitation, any interest as hereinafore described, which is held or claimed as trustee, agent, representative or nominal proprietor.

Executed at Washington, D.C., on
February 20, 1963.

155

PART V MYSTERY

Deputy Director
Office of Alien Property

ପ୍ରକାଶ ମୁଦ୍ରଣ ବ୍ୟାପକ ଲିମିଟେଡ୍ ୨୫ ୧୯୬୩
ସ୍କ୍ରିପ୍ଟ ଏତ୍ତିବିଜ୍ଞାନ

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DECLASSIFIED
Authority XND009020
By EP NARA Date 3/7/00

Jan 27, 1961

Excellencies

I have the honor to acknowledge the receipt of your note of today's date in which you refer to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into positive law by the act of Congress approved July 30, 1947.

You state that for several years after September 3, 1959, by reason of conditions arising out of World War II, German authors, copyright owners, and proprietors lacked the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright.

You express the desire of the Government of the Federal Republic of Germany, that, in accordance with the procedure provided in the above-mentioned paragraph (b), Section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of citizens of the Federal Republic of Germany whose works are eligible for copyright in the United States of America.

You assure my Government of the existence in the Federal Republic of Germany of reciprocal copyright protection for American authors, copyright owners, and proprietors. You cite the circumstances under which American authors have suffered no prejudice to their rights in the Federal Republic of Germany because of the war. You add that the German copyright laws and our copyright agreement of 1892 continue in force.

I have the honor to inform you that, on the basis of the assurances set forth in your note, the President today has issued a proclamation, a copy of which is annexed hereto, giving effect to the extension proposed in your note, pursuant to and in accordance with the provisions of paragraph (b), section 9 of the aforesaid title 17.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

Enclosure

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Copy of Proclamation.

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 Authority UNDO09020
 By EP NARA Date 3/7/01

27, 1961.

The Embassy of the Federal Republic of Germany

Sir:

I have the honor to inform you that the attention of the Federal Republic of Germany has been invited to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into law by the act of Congress approved July 30, 1947 (61 Stat. 652). This law provides for extending the time for the fulfillment of the conditions and formalities prescribed by the copyright laws of the United States in the case of authors, copyright owners, or proprietors of works first produced or published outside the United States of America who are or may have been temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential for their compliance.

My Government has requested me to inform you that, by reason of the conditions arising out of World War II, German authors, copyright owners, and proprietors of works subject to copyright or to renewal of copyright under the laws of the United States have lacked the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright. This situation existed for several years since September 3, 1939.

It is the desire of the Government of the Federal Republic of Germany that, in accordance with the procedure provided in the above-mentioned paragraph (b), section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of citizens of the Federal Republic of Germany whose works are eligible for copyright in the United States.

With the view of assuring the Government of the United States of America of the existence in the Federal Republic of Germany of reciprocal copyright

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By EP NARA Date 3/7/02

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copyright protection for authors, copyright owners and proprietors who are citizens of the United States, my government has requested me to invite your attention to the copyright agreement between Germany and the United States of America signed at Washington on January 15, 1892, and to the German Law of May 13, 1922 for the Protection of Copyright of Nationals of the United States of America (Reichsgesetzblatt, Part II, 1922, page 129). Further, a letter from the Chancellor of the German Federal Republic to the Chairman of the Allied High Commission, dated February 6, 1950, indicated that the German Federal Republic continues to consider such agreement as being in force and that the Law of May 13, 1922 continues to apply. The letter established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America.

Also, pursuant to Article 2 of Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nations and Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were, upon request made prior to October 3, 1950, restored to such United States nationals or their legal successors. Further, pursuant to Article 5 of Law No. 8, any literary or artistic right in Germany owned by a United States national at the commencement of or during the state of war was, upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came into existence, to September 30, 1950; and United States authors accordingly have suffered no prejudice to their rights in Germany because of the war.

Therefore the Government of the Federal Republic of Germany would appreciate it if the President of the United States would proclaim, in accordance with the aforesaid title 17 of the United States Code, that, by reason of the disruption or suspension of facilities during several years of

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By EP NARA Date 3/7/00

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the time after September 3, 1939, citizens of Germany who were authors, copyright owners, or proprietors of works first produced or published outside the United States and subject to copyright or renewal of copyright under the laws of the United States were temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, and that the time within which compliance with the conditions and formalities may be fulfilled is appropriately extended for citizens of the Federal Republic of Germany.

Accept, Sir, the assurances of my highest consideration.

It is also understood that the arrangements
envisaged shall also apply to Canada.

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By EP	NARA Date 3/7/00

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H

OAP-General

April 28, 1966

Mr. Lawrence H. Hoover, Jr.
Legal Officer
American Embassy
Manila, Philippines

Dear Larry:

I refer to your letter of April 6, 1966 enclosing a copy of Philippine note No. 5668 requesting certain documentation with respect to vested property.

I enclose a copy of a self-explanatory letter of April 26, 1966 received from the Office of Alien Property and enclosing the requested documentation.

Sincerely yours,

Ely Maurer
Assistant Legal Adviser
for Military and Economic Regional Affairs

Enclosure:

From Office of Alien
Property, April 26, 1966.

330004

RG 131
Entry Dept of Justice
File 1-100-0176658
Box 386

E.T.S.C.

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Entry Dept of Justice
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File 1-100-0176658
Box 386

017-6658
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JAN 19 1961

Mr. Isidore Okun
Counselor at Law
44 Court Street
Brooklyn 2, New York

Dear Mr. Okun:

Reference is made to your letter of January 29, 1953 concerning the interests of Mathilda Abramowitz and Chaim Abramowitz in the estate of Mathilda Lorber, deceased, which were vested by this Office by Vesting Order No. 4098, dated September 7, 1944.

Consideration is now being given to the divesting of this property pursuant to Section 208(b) of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1631a). In connection therewith, will you please inform me of the present addresses in Israel of Mathilda Abramowitz and Chaim Abramowitz.

Very truly yours,

(Signed) Daniel G. McGrath

Daniel G. McGrath
Chief, Claims Section
Office of Alien Property

SIGNED AND MAILED
JAN 23 1961

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RG 131
 Entry ~~Dept of Justice~~
File 1-100-0176658
 Box 386

ABD:mw

William E. Downey
 Chief, Comptroller's Section

MAY 15 1961

017-6658

Daniel G. McGrath
 Chief, Claims Section

Interests of Anshel Moskowic, Shaina Moscovic, Matilda Abramowitz and Chaim Abramowitz in the Estate of Mathilde Lorber, deceased

Vesting Order No. 4098

Accounts Nos. 57-14433, 57-14434, 57-14435 & 57-14437

(Signed)

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 Pursuant to Section 202(b) of Title II of the International Claims Settlement Act of 1949, as amended, this Office is obliged to divest the net proceeds of any property which was vested after December 17, 1941, pursuant to the provisions of the Trading with the Enemy Act, as amended, and which at the date of vesting was directly owned by a natural person who was a national of Bulgaria, Hungary or Rumania. The net proceeds are to be divested after the completion of the administration, liquidation, and disposition of the vested property including the adjudication of any suits or claims.

By Vesting Order No. 4098, dated September 7, 1944, this Office vested, inter alia, the interests of Anshel Moskowic, Shaina Moskowic, Matilda Abramowitz and Chaim Abramowitz, Rumanian nationals, in the Estate of Mathilde Lorber, deceased, in the process of administration under the judicial supervision of the Surrogate's Court, King's County, New York. The sum of \$153.91 was received thereunder for each legatee and deposited in their respective accounts.

With respect to Anshel and Shaina Moskowic, a letter of October 16, 1960 from their children in Rumania, Mahai and Stic Moscovic, stated that Anshel and Shaina were deceased. However, no reply has been received to this Office's letter of February 8, 1961 to Mahai requesting proof of heirship. Under Rumanian law, the property of an intestate is distributed one-fourth to the surviving spouse and three-fourths to the children and their descendants. Martindale-Hubbell Law Digest, 1950, Rumania, Descent and Distribution.

On January 29, 1953, Mr. Isidore Okun of New York, New York, Counselor at Law, wrote this Office on behalf of Mathilde Abramowitz and Chaim Abramowitz, whom he asserted were then residents of Israel. However, no reply has been received to a letter of January 19, 1961 of this Office to Mr. Okun inquiring concerning the present addresses of Mathilde Abramowitz and Chaim Abramowitz.

The following JRCG Claims have been withdrawn:

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<u>Claim No.</u>	<u>Vestee</u>	<u>Date of Withdrawal</u>
5112	Anshel Moskowic	Nov. 12, 1956
5113	Shaiia Moskowic	Apr. 20, 1959
5954	Matilda Abramowitz	Apr. 20, 1959
5955	Chaim Abramowitz	Nov. 12, 1956

No suits or other claims have been filed with respect to the vested property.

In view of the foregoing, the net proceeds of Accounts Nos. 57-14433, 57-14434, 57-14435 and 57-14437 are available for divesting to blocked accounts in the Treasury in the names of the vestees or their heirs. Direct divesting cannot take place, however, since the heirs of Anshel Moskowic and Shaiia Moskowic have not been established and since the present addressees of Matilda Abramowitz and Chaim Abramowitz are not known.

Accordingly, will you please make a complete audit of Accounts 57-14433, 57-14434, 57-14435 and 57-14437, showing the net proceeds available for divesting. By letter of even date the Internal Revenue Service has been requested (D-120 - D-123, inclusive) to inform you of any taxes that might be due with respect to the property. Please furnish me with a copy of the audit reports so I can prepare divesting orders.

If your records disclose any reasons for delaying issuance of the divesting orders, please inform me thereof.

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File 9-100-0175892
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FRANKLIN

REFILING ENCLOSURE FILE

(JAN 1942 - DEC 1944)

SECTION

Security File C

RG 131
Entry Dept of Justice
Acc 131-670010
File 9-100-0175892
Box 386

In replying,
please refer to:
FJMcN:mb5
017-5892

December 7, 1944

Mr. Seymour J. Rubin
Assistant Chief
Division of Financial and Monetary Affairs
Department of State
Washington, D. C.

Your reference: FMA

Dear Mr. Rubin:

Reference is made to your letter of November 23, 1944, enclosing a memorandum containing tentative views on an agenda with respect to consultation between the Departments 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.

You state that it would seem desirable and appropriate for examination to be made of those considerations and problems which yet remain in the way of removal of United States controls. It is recognized that the Department of State has a strong interest in the broad policy aspects of the release of United States controls over Allied assets just as it has had in the institution and administration of these controls. The views of the Department of State on the policy aspect of release of United States controls and returns of property to Allied nationals as briefly summarized in paragraphs "A" to "E" on pages 4 to 6 inclusive of the memorandum have been noted.

It is suggested that paragraph "D" be restated to present for discussion the policy with respect to vesting all property held by nationals of an Allied country as cloaks for nationals of an enemy country, particularly such property in the categories enumerated in paragraph 2(c) of Executive Order 9193, namely cash, bullion, moneys, currencies, deposits, credits, credit instruments, foreign exchanges and securities, and consistently therewith, a discussion of the necessity for a change of the present policy with respect to vesting property of nationals of an enemy country.

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Acc 131-670010
File 9-100-017 5892
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- 2 -

Referring to paragraph "E" on page 5 of your memorandum with respect to the return of vested property to the former owner who is an Allied national, the problem is centered upon the legal status of the property and the proposed legislation, authorizing the return thereof, which is now pending before Congress. The return of vested patents and patent applications to Allied nationals will involve, in addition to the proposed legislation, the method of return of patents and royalties, including proofs of claims, charges for administrative expenses incurred, payment of taxes, release of claims against the United States and its licensees for use or infringement, and retention of future controls or authority to vest in appropriate cases.

Other important problems for consideration concern American creditors' claims arising either out of specific blocked or vested property or generally, and reciprocal claims by set-off, or otherwise, of Allied nationals against such American creditors, particularly with respect to property which is involved in court or administrative actions or proceedings, such as attachment suits, libels, or other similar proceedings.

I shall be pleased to meet with you and Mr. Schmidt at such time and place as may be mutually convenient for discussion of the problems which you have so ably presented to us.

Sincerely yours,

Francis J. McNamara
Deputy Alien Property Custodian

330011

RG 131
Entry Dept of Justice
acc 131-670010
File 9-100-017 5892
Box 386

November 28, 1944

017-5892

My dear Mr. Stettinius:

I wish to offer you my sincere congratulations
and best wishes for a most successful administration
of the affairs of the Department of State. It will
indeed be a pleasure to continue the cordial relation-
ships that have developed between the Office of Alien
Property Custodian and your Department.

With personal regards,

Sincerely yours,

James L. Markham
Alien Property Custodian

Honorable Edward R. Stettinius, Jr.
The Secretary of State
Department of State
Washington, D. C.

330012

RG 131
 Entry Dept of Justice
Acc 131-670010
 File # 100-0175892
 Box 386

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



In reply refer to
 FMA

DEPARTMENT OF STATE

WASHINGTON

SN
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019-5892
 ALIEN PROPERTY CUSTODIAN

RECEIVED NOV 24 1944

ANS D.M.N. 12/1/44

NU. RNS DATE

November 23, 1944

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Dear Francis:

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. Orvis Schmidt, the Acting Director of Foreign Funds Control, who has been designated to deal with these problems for the Secretary of the Treasury. I shall be glad to arrange a meeting at your and his convenience.

Sincerely yours,

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

FOR DEFENSE

Enclosure:

Memorandum.



Mr. Francis McNamara,
 Deputy Alien Property Custodian,
 Washington, D. C.

330013

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Entry Dept of Justice
acc 131-670010
File 9-100-0175892
Box 386

TENTATIVE MEMORANDUM

The following comments are made with respect to the interest of the Department of State in the problem arising out of control by the Alien Property Custodian and the Treasury Department of property in the United States belonging to, or which previously belonged to, nationals of countries which have been or are enemy-occupied. The discussion which follows excludes from consideration any problems arising out of controls over properties of nationals of enemy countries, of neutral countries, or of ^{previously} enemy-occupied, non-Allied countries. (I believe Finland would be the only example in this last category.)

The measures which have been taken by the United States Government with respect to the property of nationals of Allied countries have been directed in general at the objectives of (1) preserving and protecting the interest of the United States, and (2) preserving and protecting the interest of Allied nationals. The blocking of funds, for example, was necessary in order to prevent Germany from obtaining control over and using properties in the United States to which Germany might have had access by virtue of its control in the territory of the occupied nations. The interests of the United States were involved in seeing to it that such funds were not used

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by the Germans for purposes inimical to the welfare of the United States; and the interests of Allied nationals were preserved, at the same time, by insuring that such transfers under duress or under any type of pressure or deceit would not be recognized. The Custodian has vested, also, patents and patent applications belonging to nationals of Allied countries in order both to make such patents available for the common war effort and to protect the Allied nationals by collecting royalties, prosecuting patent applications, etc. The protective nature of these steps have been emphasized in statements issued both by the Treasury Department, as for example the memorandum of June 30, 1942 prepared for the Inter-American Conference on Systems of Economic and Financial Control, and by the Custodian, as for example the statement of policy with respect to patents issued in January 1943.

The progressive reoccupation by Allied forces of zones which were formerly enemy-occupied and the progressive re-establishment of the Allied governments on their own soil, has eliminated, to a considerable extent, though perhaps not entirely, the reasons because of which United States controls were placed over the property of these Allied nationals. As communications become increasingly available, it will be possible for these Allied nationals to establish ordinary and usual commercial connections with those persons in the United States having custody of their property, and thus eliminate

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eliminate the possibility of the United States agency being in receipt of orders of doubtful authenticity. Moreover, the possibility will be removed that orders which emanate from liberated territory may have been dictated by the enemy or under pressure from the enemy. Further, the possibility of such funds being used by the enemy to the detriment of the interests of the United States or of the common war effort will be largely eliminated by virtue of the Allied reoccupation and liberation, and protective measures taken by the re-located Allied governments. The basic reasons for the establishment of the controls will have, and to a substantial extent already have, vanished. It would therefore seem desirable and appropriate for examination to be made by the Department of State, the Treasury Department, and the Office of Alien Property Custodian of those considerations and problems which yet remain in the way of removal of the United States controls.

It should be specifically pointed out that it is not the province of the Department of State to attempt to spell out all of these possible considerations or problems. Most of them are of a technical nature. The release of blocking controls, for example, brings to the fore questions with respect to attachments which may have been levied against the blocked funds, other types of actions affecting the funds, questions as between American claimants to the funds and foreign claimants or American assignees of the foreign claimants, etc.

These

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These technical questions can be fully catalogued and comprehensively dealt with only by those agencies which, by daily contact, are thoroughly familiar with the techniques and intricacies of the United States controls. On the other hand, the Department of State has a strong interest in the broad policy aspects of the release of United States controls over Allied assets just as it has had in the institution and administration of these controls.

The views of the Department of State on the policy aspect of release of United States controls and returns of property to Allied nationals may be briefly summarized as follows:

A. Return of vested property, or the release of blocking controls, should be accomplished as soon as possible after liberation of the relevant Allied country. The manner of return or release should be determined after consultation with respect (1) to the desires of the government having jurisdiction over such Allied national, (2) to the provision by such Allied government for the orderly administration of such assets or assumption of responsibility for their use in a manner consonant with United Nations policy, and (3) to the making of adequate provision for such United States interests as may appear in such property.

B. In general, it is believed that determination of the suitability or not of a particular person whose property has been vested or blocked to receive control over his property should be left to his government. In other words,

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words, this Government should make no attempt to determine whether or not a particular person has been a collaborator.

C. Whether or not this Government should prevent return of his property to an Allied national on the ground that his own government has convicted him of collaboration is a question upon which further discussion is necessary to develop a policy determination.

D. On the other hand, this Government should itself, in questionable cases, determine whether or not particular property standing in the name of a national of an Allied enemy-occupied country really belongs to such person, or whether that person is or has become merely a cloak for the enemy. Should the latter determination be made, the property, should, of course, be treated as enemy property rather than as the property of a national of an Allied country.

E. So far as is possible, property which has been vested should be returned to the individual or company in whose name the interest stood at the time of vesting. For example, property which was vested from a French national should be returned to that person rather than to the French Government acting in his stead. The release of blocking controls (unless under directive license) will in fact have this effect. Such returns to individual former owners.

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owners may, however, not be possible, because of the fact that certain persons may have disappeared, their property may have escheated to the State, and the Allied governments may insist, even apart from the above difficulties, on working out a procedure under which they can represent all of their nationals.

With respect to specific problems involved in returns or in unblocking, it may be pointed out that careful exploration will have to be made of such questions as the controls to be retained in order to achieve certain United States objectives, as, for example, the relation of securities controls so far as Allied nationals are concerned to the problem of preventing realization on looted securities; the establishment of procedures for presenting adequate proofs of ownership by Allied nationals who seek returns of property, and perhaps, who seek unblocking of funds or securities; the working out of coordination between controls administered by the Treasury and the Custodian, so that modification or relaxation of controls of the one agency will be accompanied, where necessary, by complementary steps by the other agency; and so forth. It should be emphasized, however, that the agenda and the program on this phase of the problem should be the primary responsibility of the agencies administering the controls, with the Department of State participating on the foreign policy and foreign relations implications of these questions.

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*Has been reviewed by
 Muchlup and MacGregor
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In replying, please
 refer to: LSC:DS:mh

July 10, 1945

017-5892

Secretary of State
 Department of State
 Washington, D. C.

Attention: Mr. Thomas Mann
 Division of Economic Security Controls

Gentlemen:

In response to your urgent verbal request of July 7, 1945 there is submitted herewith a statement regarding the vesting policy of the Office of Alien Property Custodian. For your convenience the vesting policy of the Office is discussed on a question and answer basis. In your request you wanted answers to questions nos. 1, 4, 5 and 6. In order to make the story complete I have included questions 2 and 3. If you have not already done so, it is suggested that the reading of Chapter 2 (pp. 5-15) of the Annual Report of the Office of Alien Property Custodian for the fiscal year ended June 30, 1944, may prove helpful.

1) What is the vesting policy of the Office with respect to properties belonging to citizens of enemy countries (German and Japanese) residing in the United States?

a) The general policy is not to vest properties belonging to citizens of enemy countries residing in the United States. This policy is the product of numerous conferences and exchange of letters between the Department and the Office dating back to the second half of the calendar year 1942. The Department's latest request not to seize properties belonging to citizens of enemy countries residing in the United States is dated July 2, 1945.

b) There, of course, have been exceptions to this policy. Whenever and wherever it was found that citizens of enemy countries residing in this country were engaged in activities against the national interest and/or were using their properties against the national interest, the properties in

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question were subject to vesting and seizures were made. On May 15, 1944, for example, the Custodian vested (V.O. 3546) the properties of a German national residing in Hawaii because the person was engaged in espionage activities against the United States. He is now serving a 30 year sentence.

2) What is the vesting policy of the Office with respect to the properties of internees?

a) With respect to interned cases the Office has followed two policies. For a few months after the Office was established in March 1942, the policy was to vest the properties of internees. Primarily, at the request of the Department, however, the vesting policy was abandoned by January 1943. Since 1943 it has been the policy of the Office to issue supervisory orders on internee properties when it is thought that such properties require government control. Since the spring of 1944 very few supervisory orders on internee properties have been issued and since July 1944 the Office has been terminating all terminable supervisory orders issued on internee properties.

b) For exceptions, see (1) (b).

3) What is the vesting policy of the Office with respect to properties of repatriates?

a) The general policy is to vest the properties of repatriates after repatriation. Thus, the same principles are applied to repatriates and their properties as are applied to enemy nationals living in Germany and Japan. The Office may not vest immediately, if at all, the properties belonging to repatriates after repatriation. If it elects not to vest it is an administrative decision and is based upon such considerations as the character of the properties and the values involved. The Office seldom vests the properties of persons before they are repatriated.

4) What is the vesting policy of the Office with respect to properties owned by United States citizens (either by birth or naturalization) of German or Japanese ancestry--(1) residing in the United States and (2) residing in Germany or Japan?

a) With respect to United States citizens of German or Japanese ancestry, residing in the United States, this Office does not vest the properties belonging to such persons unless such persons and their properties are being used in behalf of the enemy and against the national interest.

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- a) With respect to United States citizens of German or Japanese ancestry residing in Germany or Japan, the policy of the Office has been to either issue a vesting or supervisory order. Generally, the Office has vested the property if it could ascertain that the person went to the enemy country to make it his permanent residence, etc. has pledged allegiance to the enemy, is aiding the enemy, etc. The Office has issued a supervisory order on the property if it could ascertain that the person went to the enemy country for a visit, was forcibly detained there, could not return because of the war, etc. For obvious reasons it was and is difficult to ascertain and/or weigh these factors. Hence, most of the orders issued under those conditions have been vesting orders.
- b) What is the vesting policy of the Office with respect to properties of persons under dual citizenship—(1) residing in the United States and (2) residing in enemy country?
- a) With respect to such persons residing in the United States the general policy is not to vest.
- b) With respect to such persons residing in enemy country the Office has issued either vesting or supervisory orders. Generally, the Office has vested if a person under dual citizenship went to the enemy country with intentions of remaining there permanently, is aiding the enemy, etc. There are scores of Japanese cases of this type. On the other hand the Office has issued a supervisory order if it were ascertained that the person went to the enemy country for a visit, was forcibly detained, etc. In conclusion, your attention is invited to the fact that it is difficult, if not impossible, to determine the dual citizenship of a "citizen" of the United States at the time of vesting.
- c) What is the vesting policy of the Office with respect to a business enterprise partially owned by an enemy national living in enemy country?
- a) The policy of the Office is to vest that part of the business enterprise which is enemy owned. There are numerous cases of this type which have been vested.

It is hoped that the foregoing statements regarding the vesting policy of the Office will be helpful to you.

Sincerely yours,

(Signed) Lloyd L. Shaulis

Lloyd L. Shaulis
 Secretary

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