Le présent volume doit être cité comme suit:

« *C. I. J. Mémoires, Affaire de l'Interhandel (Suisse c. États-Unis d'Amérique).* »

This volume should be quoted as:

"*I.C.J. Pleadings, Interhandel Case (Switzerland* v. *United States of America).*"

N° de vente : Sales number 227

AFFAIRE DE L'INTERHANDEL *

(SUISSE c. ÉTATS-UNIS D'AMÉRIQUE)

INTERHANDEL CASE *

(SWITZERLAND *v.* UNITED STATES OF AMERICA)

* *Note du Greffe.* — **Les renvois à un texte ayant fait l'objet d'une édition provisoire à l'usage de la Cour ont été remplacés par des renvois aux pages de la présente édition définitive.**

* *Note by the Registry.*—**Any references to a text which was issued in a provisional edition for the use of the Court have been replaced by references to the pages in the present definitive edition.**

COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRE DE L'INTERHANDEL

(SUISSE c. ÉTATS-UNIS D'AMÉRIQUE)

ARRÊT DU 21 MARS 1959

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

INTERHANDEL CASE

(SWITZERLAND *v.* UNITED STATES OF AMERICA)

JUDGMENT OF 21 MARCH 1959

PRINTED IN THE NETHERLANDS

2. PRELIMINARY OBJECTIONS SUBMITTED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA

CONTENTS

Preliminary Objections of the Government of the United States of America

The Government of the United States of America herewith, pursuant to Article 62 of the Rules of the Court, files the following Preliminary Objections and prays that the Honorable Court, without entering into the merits, declare that it has no jurisdiction in the matter:

First Preliminary Objection.—The dispute arose before the date on which the acceptance of the Court's compulsory jurisdiction by the United States of America became effective.

Second Preliminary Objection.—In any event, the dispute arose before the date on which the acceptance of the Court's compulsory jurisdiction by the United States of America became binding on this country as regards Switzerland.

Third Preliminary Objection.—Interhandel, the company on whose behalf the Government of Switzerland seeks restoration of the stock in General Aniline & Film Corporation, has not exhausted the local remedies available to it in the United States courts pursuant to the statutes of the United States.

Fourth Preliminary Objection.—(a) The sale or disposition by the Government of the United States of America of the stock in General Aniline & Film Corporation, vested as enemy assets under the United States Trading with the Enemy Act, has been determined by the United States of America, pursuant to paragraph *(b)* of the Conditions attached to this country's acceptance of the Court's compulsory jurisdiction, to be a matter essentially within the domestic jurisdiction of the United States. Accordingly, pursuant to paragraph *(b)* of the said Conditions the United States of America respectfully declines to submit to the jurisdiction of the Court the matter of the sale or disposition of such shares, including the passing of good and clear title to any person or entity. Such determination by the United States of America that the sale or disposition by the Government of the United States of the stock in General Aniline & Film Corporation is a matter essentially within its domestic jurisdiction applies to all the issues raised in the Swiss Application and Memorial, including, but not limited to, the Swiss-United States Treaty of Arbitration and Conciliation of 1931 and the Washington Accord of 1946.

(b) It is recognized by the principles of international law that the war-time seizure by the United States of stock in a domestic corporation, and the consequent retention of that stock, are matters within the domestic jurisdiction of the United States. In the exercise

of its powers under Article 36, paragraph 6, of the Statute the Court should therefore deny jurisdiction to adjudicate the legality of the seizure and retention of the General Aniline & Film stock.

In view of the preliminary objections filed herewith, we shall not at this time discuss the merits of the application of the Swiss Confederation. For instance, we shall not discuss the contention of the Government of the Swiss Confederation that the dispute should be submitted to proceedings under the Treaty of Arbitration and Conciliation of 1931, concluded between Switzerland and the United States. Nor shall we specifically discuss Switzerland's reliance on the Washington Accord which, in the view of the United States, applies only to German assets in Switzerland, not to properties seized as enemy assets within the jurisdiction of any of the Allied Governments. Rather, we shall set forth only those facts which are indispensable for the consideration of the preliminary objections. We reserve for future statement, if necessary, a full discussion of the merits of the case and will then furnish necessary corrections of the allegations made by the Government of Switzerland.

STATEMENT OF BASIC FACTS

By the present proceedings the Government of the Confederation of Switzerland seeks the restoration of certain shares of stock in General Aniline & Film Corporation [1]. General Aniline & Film Corporation is a corporation organized under the laws of Delaware, one of the States of the United States of America [2]. As one of this country's largest producers of photographic equipment and supplies, polyvinyl ethers, dyestuffs, textile auxiliaries, and carbonyl iron powder, General Aniline played an important role in national preparedness efforts prior to World War II, and in the subsequent war efforts of the United States [3]. The products manufactured by General Aniline are of prime importance not only directly to the armed services but indirectly to other essential war industries as well. Under regulations issued pursuant to the Trading with the Enemy Act, General Aniline has been designated as a "key corporation" because of its importance in fields so closely related to the defence economy of the United States [4].

---

[1] Application, p. 15; Memorial, p. 143.

[2] See Vesting Order issued by the United States Secretary of the Treasury, February 16, 1942, and Vesting Order No. 907, issued by the United States Alien Property Custodian on February 15, 1943, Exhibits 1 and 2, Appendix, *infra*, pp. 328 and 330.

[3] See excerpts from the Annual Reports of the company for the years 1941, 1942, and 1943, Exhibits 3, 4 and 5, Appendix, *infra*, pp. 331, 335 and 338.

[4] See General Order No. 35, and Order No. 3 under General Order No. 35, issued on September 9 and October 14, 1946, respectively (8 Code of Federal Regulations (1952 ed.) Secs 505.10 and 505.13), Exhibits 6 and 7, Appendix, *infra*, pp. 340 and 342.

The Government of Switzerland on behalf of its national, Interhandel, seeks the restoration of 455,624 common A shares and 2,050,000 common B shares of General Aniline, constituting well over 90% of the corporation's outstanding capital stock [1]. To a very large extent the stock certificates representing the shares were physically located in the United States [2].

The General Aniline stock was vested by the United States, after investigation, under the Trading with the Enemy Act, as enemy property, i.e. as property owned by or held for the benefit of I. G. Farbenindustrie A. G., of Frankfurt, Germany[3]. The United States thus acquired title to the stock. Vesting under the Trading with the Enemy Act is a war measure of the United States taken, in the interest of national defense, as part of this country's war powers and in the exercise of its sovereignty. The Supreme Court of the United States in *Stoehr* v. *Wallace*, 255 U. S. 239, at 242 (1921), thus described the Trading with the Enemy Act:

> "The Trading with the Enemy Act whether taken as originally enacted ... or as since amended ... is strictly a war measure and finds its sanction in the constitutional provision in art. I, sec. 8, cl. 11, empowering Congress 'to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.' *Brown* v. *U. S.*, 8 Cranch 110, 126, 3 L. ed. 504, 510; *Miller* v. *U. S.* (*Page* v. *U. S.*), 11 Wall. 268, 305, 20 L. ed. 135, 144.
>
> It is with parts of the act which relate to captures on land that we now are concerned. They invest the President with extensive powers respecting the sequestration, custody, and disposal of enemy property."

In *United States* v. *Chemical Foundation*, 272 U. S. 1, 9-10 (1926), the Supreme Court stated that the purpose of the Act

> "... was not only to weaken enemy countries by depriving their supporters of their properties (*Miller* v. *Robertson*, 266 U. S. 243, 248) but also to promote production in the United States of things useful for the effective prosecution of the war".

As indicated above, by the vesting of the General Aniline stock in 1942, this Government determined that Interhandel was a cloak for I. G. Farben and that the General Aniline stock was property owned by or held for the benefit of I. G. Farben. This view of the United States Government was communicated to the Swiss Government by an aide-memoire, dated February 16, 1942 (Exhibit 10, Appendix, *infra*, p. 345). On the other hand, the Swiss Compensation Office, an arm of the Swiss Government, after investigations in June and July 1945, concluded that "Interhandel had completely severed the ties with I. G. Farben in 1940". (Swiss Memorial, p. 85; Annex

[1] See Memorial, p. 85.

[2] See Exhibits 8 and 9 showing that the stock certificates for 2,050,000 B shares were deposited in the United States. Appendix, *infra*, pp. 343 and 344.

[3] See Vesting Orders marked Exhibits 1 and 2, Appendix, *infra*, pp. 328 and 330.

to Memorial, p. 149). The position of the United States Government, however, remained unchanged and officials of the United States "repeatedly maintained to the Swiss authorities", particularly in July and October 1945, and January 1946, that Interhandel's "connection with Farben was still maintained" [1].

After a second supplementary investigation from November 1945 to February 1946, the Swiss Compensation Office determined that Interhandel was not German owned or controlled. Switzerland communicated its views to representatives of the United States repeatedly prior to August 26, 1946, on at least five occasions alone in November 1945, and May and August 1946. By letter of November 6, 1945, the Swiss Federal Political Department informed the American Legation that "very thorough investigations in Switzerland have failed to establish the actual existence of a tie between I. G. Chemie [i. e. Interhandel] and I. G. Farben" (Exhibit 12, Appendix, *infra*, p. 347). Also in November 1945, Swiss officials refused to permit American officers to have access to files at Interhandel because "in the opinion of the Swiss Compensation Office, the German interest [in Interhandel] cannot be proved" (Annex to Memorial, pp. 150-151).

On May 21, 1946, representatives of the Swiss Government met with officials of the United States Department of Justice in Washington, D. C. Again the Swiss stated that there was no evidence of any continuing ownership of Interhandel by I. G. Farben after 1940 [2]. Under the impression that the Swiss representatives had agreed to conduct in Switzerland a joint investigation of Interhandel with the United States Department of Justice, attorneys of that Department met with officials of the Swiss Compensation Office in Zurich in July and August 1946. (Memorial, p. 86; Annex to Memorial, p. 151). However, the Swiss refused to proceed with the joint investigation. In a letter of August 10, 1946, to the American representatives, the Swiss Compensation Office reaffirmed its position that "the firm Interhandel should not be blocked," i. e., was not subject to the Swiss decree of February 16, 1945, blocking German assets in Switzerland. Thereafter, on August 16, 1946, a representative of the Swiss Federal Political Department stated to officials of this Government that after two investigations by the Swiss Compensation Office, Interhandel had been determined to be Swiss-owned [3].

---

[1] Report of the Swiss Compensation Office, September 24, 1947 (Annex to Swiss Memorial, pp. 149-150). See also letter of January 19, 1946, from the American Legation, Berne, to the Federal Political Department reaffirming this position (Exhibit 11, Appendix, *infra*, p.).

[2] See memorandum by Irving J. Levy, a former member of the United States Department of Justice, May 22, 1946 (Exhibit 13, Appendix, *infra*, page 349).

[3] Letter of the Swiss Compensation Office to Mr. Harry L. Jones of the United States Department of Justice, c/o American Embassy, Berne, August 10, 1946 (Exhibit 14, Appendix, *infra*, p. 350); Memorandum by Mr. Harry Conover of the American Legation, Berne, August 16, 1946 (Exhibit 15, *infra*, p. 352).

By its aide-memoire of June 4, 1947, the Swiss Government again expressed its view that Interhandel was not German-controlled and that there was no proof of cloaking by Interhandel for the benefit of Germany. On June 18, 1947, the United States Government rejected the Swiss aide-memoire. It reaffirmed the vesting action and, in response to a contention of the Swiss Government, added that decisions of Swiss authorities under the Washington Accord of 1946 could have no effect on the vested General Aniline & Film stock. The United States aide-memoire of April 21, 1948, restated the view that property vested by the United States is wholly unaffected by the Washington Accord. The Swiss Government's reply note of May 4, 1948, again invoking the Washington Accord of 1946 and Interhandel's clearance by the Swiss Authority of Review, made a formal request for the release of the vested stock. Finally, by Note of July 26, 1948, the United States Government, stating its "final and considered view," rejected the Swiss contentions in detail [1].

In October 1948, Interhandel filed a suit in the United States District Court for the District of Columbia against the Attorney General of the United States, as successor to the Alien Property Custodian, for the return of the same vested assets which are here sought to be restored by the application of the Confederation of Switzerland. Such suits by claimants who are neither enemies nor allies of enemies are authorized and provided for by Section 9 (a) of the Trading with the Enemy Act [2], which, as noted above, was enacted pursuant to the sovereign war powers of the United States.

The issues raised by Interhandel's complaint, and the answer filed by the Attorney General, are whether Interhandel was an enemy or was enemy tainted, whether Interhandel owned the vested property, and whether Interhandel had participated in a conspiracy with its private banking affiliate, H. Sturzenegger & Cie., also of Basel, Switzerland, an I. G. Farben to cloak properties in many countries outside of Germany, including the United States, in the interest of I. G. Farben, an enemy corporation [3].

After lengthy proceedings, the United States District Court dismissed Interhandel's complaint on December 21, 1953. Thereafter, Interhandel prosecuted appeals unsuccessfully at all levels of the federal appellate judiciary [4]. Finally, on August 6, 1957, Interhandel filed with the Supreme Court of the United States of America

---

[1] The text of the Swiss aide-memoire of June 4, 1947, the United States note of June 18, 1947, the United States aide-memoire of April 21, 1948, the Swiss reply note of May 4, 1948, and the United States note of July 26, 1948, are set forth as Exhibits 16 to 20, Appendix, *infra*, pp. 352-358.

[2] For the text of Section 9 (a) of the Trading with the Enemy Act, see Exhibit 21, Appendix, *infra*, p. 359.

[3] The complaint filed on October 21, 1948, and the amended answer filed on January 26, 1950, are Exhibits 22 and 23 hereto, Appendix, *infra*, pp. 360, 363.

[4] See the recital of the chronology of these proceedings at pp. 94-98 of the Swiss Memorial.

a petition for a writ of certiorari to review the orders of the lower courts dismissing its complaint. As stated to this Court by Mr. Townsend, co-agent of the United States of America, in oral argument on October 12, 1957, the petition was then pending before the Supreme Court [1]. Thereafter, on October 14, 1957, the Supreme Court granted Interhandel's petition [2]. The Supreme Court heard oral argument on May 1, 1958, and has the case now under advisement.

II

STATEMENT OF THE LAW

First Preliminary Objection

By its First Preliminary Objection the Government of the United States of America objects to the jurisdiction of this Court on the ground that the dispute here presented arose before August 26, 1946, the date on which the Declaration of the United States accepting the compulsory jurisdiction of this Court became effective [3]. The Declaration of the United States was limited to disputes "hereafter arising," but the present dispute arose between Switzerland and the United States of America well before that date.

As it was stated by the Permanent Court of International Justice in the *Mavrommatis Case*, Judgment (Jurisdiction), August 30, 1924, Series A, No. 2, at pp. 11-12,

> "A dispute is a disagreement on a point of law or fact, a conflict of legal views or of interests between two persons ..."
>
> "... it is true that the dispute was at first between a private person and a State—i.e. between M. Mavrommatis and Great Britain. Subsequently, the Greek Government took up the case. The dispute then entered upon a new phase; it entered the domain of international law, and became a dispute between two States. Henceforward therefore it is a dispute which may or may not fall under the jurisdiction of the Permanent Court of International Justice."

Here, the disagreement caused by the vesting of the shares of General Aniline & Film Corporation had become a "dispute between two States" substantially prior to August 26, 1946. In our Statement of Facts we have shown the early conflicts of views in the present case between Switzerland and the United States. While the United States has taken the position, ever since 1942, that Interhandel was a cloak for I. G. Farben of Germany and that the vested shares

---

[1] Interhandel Case (interim measures of protection), oral proceedings, October 12, 1957 [See Part II, *Oral Proceedings*, pp. 456-458.]

[2] Interhandel Case (interim measures of protection), Order of October 24, 1957; *I. C. J. Reports 1957*, p. 108; see also the Swiss Memorial, p. 97.

[3] The text of the United States Declaration is set forth as Exhibit 24, Appendix, *infra*, p. 370.

were property owned by or held for the benefit of I. G. Farben, the Swiss Government has taken the opposite view at least since the summer of 1945. As demonstrated above (*supra*, p. 306), that opposite view was communicated by officials of the Swiss Government to several representatives of the United States Government on at least five occasions before August 26, 1946, namely in November 1945 and in May and early August of 1946. The conflicting views were exchanged by the two Governments, acting through representatives of the Swiss Federal Political Department and the Swiss Compensation Office, on the one hand, and representatives of the United States Department of State and Department of Justice, on the other, both in official discussions and by official correspondence dealing specifically with the Interhandel case. Clearly, the exchange of these conflicting views constituted an international dispute. See the case of the *Legal Status of Eastern Greenland*, P. C. I. J., Series A/B, No. 53 (Judgment of April 5, 1933), p. 22, at p. 71, where the Court held that a mere oral statement to the representative of a foreign Government is sufficient to enunciate the official view of the Government.

The Interhandel controversy, thus, was a dispute between the Governments of Switzerland and the United States of America before August 26, 1946. The consistent expressions of their differences of opinion by the official representatives of the two Governments made it a "dispute" between the two States, for it is not necessary that the conflict be carried on by means of diplomatic negotiations. As the Permanent Court of International Justice stated in the case of the *German Interests in Polish Upper Silesia*, Judgment (Jurisdiction) August 25, 1925, Series A, No. 6, at p. 14:

> "Now a difference of opinion does exist as soon as one of the Governments concerned points out that the attitude adopted by the other conflicts with its own views."

And in the *Chorzów Factory Case*, Judgment (Interpretation), December 16, 1927, Series A, No. 13, at pp. 10-11, interpreting the term "dispute," the Permanent Court again stated:

> "In so far as concerns the word 'dispute', the Court observes that, according to the tenor of Article 60 of the Statute, the manifestation of the existence of the dispute in a specific manner, as for instance by diplomatic negotiations, is not required. It would no doubt be desirable that a State should not proceed to take as serious a step as summoning another State to appear before the Court without having previously, within reasonable limits, endeavoured to make it quite clear that a difference of views is in question which has not been capable of being otherwise overcome. But in view of the wording of the article, the Court considers that it cannot require that the dispute should have manifested itself in a formal way; according to the Court's view, it should be sufficient if the two Governments have in fact shown themselves as holding opposite views in regard to the meaning or scope of a judgment of the Court.

> The Court in this respect recalls the fact that in its Judgment No. 6 (relating to the objection to the jurisdiction raised by Poland in regard to the application made by the German Government under Article 23 of the Geneva Convention concerning Upper Silesia), it expressed the opinion that, the article in question not requiring preliminary diplomatic negotiations as a condition precedent, recourse could be had to the Court as soon as one of the Parties considered that there was a difference of opinion arising out of the interpretation and application of Articles 6 to 22 of the Convention."[1]

That the dispute was a legal dispute is, of course, beyond question since the crucial consequences which flowed from this dispute concerning the ownership and control of Interhandel affected the international legal rights of the United States and Switzerland with respect to the vested stock in General Aniline & Film Corporation. While in its development over the years new facets were added to the dispute, the above-stated difference of opinion between the two Governments as to the enemy character of Interhandel and the ownership of the General Aniline stock has always been, and still continues to be, the essence of the dispute. This is evident from the Swiss Application and the Memorial, both of which are predicated upon the broad contention that Interhandel "was not under enemy control at the time of the entry of the United States of America into the second World War and ... it holds almost the totality of the shares of the General Aniline and Film Corporation, which is neither a corporation registered in a country as enemy of the United States of America nor under the control of a corporation registered in an enemy country but is connected with Interhandel alone and controlled by it" (Memorial, p. 142; see also Application, pp. 8, 9; and the lengthy exposition in the Memorial of the Swiss contentions concerning the alleged character of Interhandel and the allegedly non-enemy nature of the vested assets, pp. 79-85, 108-109, 121-128.)

It follows that the legal dispute here presented by the Government of Switzerland is not within the jurisdiction of this Court because it arose before the date on which this country's acceptance of the compulsory jurisdiction of the Court became effective.

Second Preliminary Objection

By its Second Preliminary Objection the Government of the United States of America objects to the jurisdiction of this Court on the ground that, in any event, the dispute here presented arose

[1] See also Guggenheim, *Lehrbuch des Voelkerrechts*, (1951), vol. II, p. 715: "... a 'dispute' is a conflict in which contrary interests of the parties have found their expression in differences of opinion between them. The parties need not as yet have formulated their claims."

The original German text reads as follows: "... dass ein 'Streit' ein Konflikt ist, bei welchem gegensaetzliche Interessen der Streitparteien in Meinungsverschiedenheiten zwischen ihnen ihren Ausdruck finden. Die Streitteile brauchen aber ihre Anspruche noch nicht formuliert zu haben."

before the date on which the acceptance of the Court's compulsory jurisdiction by this country became binding on this country as regards Switzerland.

As shown in our discussion of the First Preliminary Objection (*supra*, p.308), the present dispute arose before August 26, 1946, the date of the United States Declaration, and only disputes arising after that date are covered by the United States Declaration. But even if the facts there stated were held not to constitute a "dispute", there can be no question that the formal exchange of diplomatic notes between June 1947 and July 1948 gave rise to a dispute before July 28, 1948, the effective date of the Swiss Declaration [1].

Because of the reciprocity principle governing the Court's compulsory jurisdiction (see Hudson, *The Permanent Court of International Justice, 1920-1942* (1943), pp. 465-467) the Court thus lacks jurisdiction of the present dispute. The general principle of reciprocity was codified in Article 36, par. 2, of the Court's Statute ("The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, *in relation to any other state accepting the same obligation*, the jurisdiction of the Court in all legal disputes concerning ..." [Emphasis added]). The principle was specified in both the United States and the Swiss Declarations accepting the Court's jurisdiction, both Declarations being "in relation to any other state accepting the same obligation".

The United States Declaration, which was effective August 26, 1946, contained the clause limiting the Court's jurisdiction to disputes "hereafter arising," while no such qualifying clause is contained in the Swiss Declaration which was effective July 28, 1948. But the reciprocity principle, we submit, requires that as between the United States and Switzerland the Court's jurisdiction be limited to disputes arising after July 28, 1948.

The Court has recently, in the *Case of Certain Norwegian Loans* (Judgment of July 6, 1957, *I.C.J. Reports 1957*, p. 9, at pp. 23-24), reaffirmed its interpretation of the principle of reciprocity:

> "In the Preliminary Objections filed by the Norwegian Government it is stated:
>
> 'The Norwegian Government did not insert any such reservation in its own Declaration. But it has the right to rely upon the restrictions placed by France upon her own undertakings.
>
> Convinced that the dispute which has been brought before the Court by the Application of July 6th, 1955, is within the domestic jurisdiction, the Norwegian Government considers itself fully entitled to rely on this right. Accordingly, it requests the Court to decline, on grounds that it lacks jurisdiction, the function which the French Government would have it assume.'

[1] The text of the Swiss Declaration is set forth as Exhibit 25, Appendix, *infra* p. 371.

In considering this ground of the Objection the Court notes in the first place that the present case has been brought before it on the basis of Article 36, paragraph 2, of the Statute and of the corresponding Declarations of acceptance of compulsory jurisdiction; that in the present case the jurisdiction of the Court depends upon the Declarations made by the Parties in accordance with Article 36, paragraph 2, of the Statute on condition of reciprocity; and that, since two unilateral declarations are involved, such jurisdiction is conferred upon the Court only to the extent to which the Declarations coincide in conferring it. A comparison between the two Declarations shows that the French Declaration accepts the Court's jurisdiction within narrower limits than the Norwegian Declaration; consequently, the common will of the Parties, which is the basis of the Court's jurisdiction, exists within these narrower limits indicated by the French reservation. Following in this connection the jurisprudence of the Permanent Court of International Justice (Phosphates in Morocco case, Judgment of June 14th, 1938, P. C. I. J., Series A/B, No. 74, p. 22; Electricity Company of Sofia and Bulgaria case, Judgment of April 4th, 1939, P. C. I. J., Series A/B, No. 77, p. 81) the Court has reaffirmed this method of defining the limits of its jurisdiction. Thus the judgment of the Court in the *Anglo-Iranian Oil Company* case states:

> 'As the Iranian Declaration is more limited in scope than the United Kingdom Declaration, it is the Iranian Declaration on which the Court must base itself.' (*I. C. J. Reports 1952*, p. 103.)

France has limited her acceptance of the compulsory jurisdiction of the Court by excluding beforehand disputes 'relating to matters which are essentially within the national jurisdiction as understood by the Government of the French Republic'. In accordance with the condition of reciprocity to which acceptance of the compulsory jurisdiction is made subject in both Declarations and which is provided for in Article 36, paragraph 3, of the Statute, Norway, equally with France, is entitled to except from the compulsory jurisdiction of the Court disputes understood by Norway to be essentially within its national jurisdiction."

See also the statement in the Individual Opinion of President McNair in the *Anglo-Iranian Oil Co.* case that a country invoking the compulsory jurisdiction "must shew that the Declarations of both States concur in comprising the dispute in question within their scope" (*I.C.J. Reports 1952*, at p. 116). Or, as Professor Enriques described it, the two Declarations, to the extent of their complete equality, become merged and together constitute an arbitral accord:

> "Since the acceptance under the condition of reciprocity represents the will to assume an obligation towards any other Member or State accepting the same obligation, it is clear that the various declarations of acceptance under the condition of reciprocity must correspond exactly, are intrinsically linked and constitute an arbitral accord. The effect of this accord is that every State, accepting under the condition of reciprocity, assumes towards any other State likewise

accepting under the condition of reciprocity the obligation to submit certain controversies to the jurisdiction of the Court." Giuliano Enriques, "L'Acceptation, sans réciprocité, de la juridiction obligatoire de la Cour permanente de Justice internationale", *Revue de Droit international*, (3rd series, 1932), vol. 13, p. 834, at p. 846.[1]

Accordingly, it is the United States Declaration, more limited in scope because of its prohibition of retroactivity, on which, in the words of the *Anglo-Iranian Oil* decision, "the Court must base itself". If that is done, there can be no jurisdiction in the Court with respect to the present dispute, even if it arose after August 26, 1946, but before July 28, 1948. Otherwise, retroactive effect would be given to the compulsory jurisdiction of the Court. For if the dispute is considered to have arisen between the two countries sometime between August 26, 1946 and July 28, 1948, there could not have been compulsory jurisdiction as regards the two countries, no Declaration on the part of Switzerland accepting compulsory jurisdiction then being in effect [2].

If the United States had filed an application against Switzerland with regard to a dispute which arose after August 26, 1946, but before July 28, 1948, Switzerland, as a respondent, could have invoked the principle of reciprocity and claimed that, in the same way as the United States is not bound to accept the Court's jurisdiction with respect to disputes arising before its acceptance, Switzerland, too, could not be required to accept the Court's jurisdiction in relation to disputes arising before its acceptance. It is simply a requirement of fairness and equality that the result be the same here where Switzerland is the applicant and the United States the respondent.

See also the *Phosphates in Morocco* case between France and Italy (P.C.I.J., Series A/B, No. 47) where application of the reciprocity principle to a Preliminary Objection based upon *ratione temporis* was urged by France. In that case, the French Declaration, effective April 25, 1931, had accepted the jurisdiction of the Court "in any disputes which may arise after the ratification of the present declaration with regard to situations or facts subsequent to such ratification ...", while the Italian Declaration, effective September 7,

[1] The French text is as follows:

"Comme l'acceptation sous condition de réciprocité signifie la volonté de s'engager vis-à-vis de tout autre Membre ou État qui accepte la même obligation, il est clair que les diverses déclarations d'acceptation sous condition de réciprocité se correspondent exactement, se conjuguent et constituent un accord arbitral. L'effet de cet accord est que chaque État qui accepte, sous condition de réciprocité, assume l'obligation, vis-à-vis de tout autre État qui accepte également sous condition de réciprocité, de soumettre certaines controverses à la juridiction de la Cour."

[2] Switzerland's acceptance of the jurisdiction of the Permanent Court of International Justice, originally filed July 25, 1921, expired on April 17, 1947. Hudson, *The Permanent Court of International Justice, 1920-1942* (1943), p. 701, note 55, and p. 705. Switzerland's acceptance of the jurisdiction of the International Court of Justice became effective only on July 28, 1948.

1931, had recognized the jurisdiction of the Court with regard to later-arising disputes without the additional requirement that they be disputes "with regard to situations or facts subsequent to such ratification". In its Preliminary Objection the French Government urged, *inter alia*, that because of the principle of reciprocity the qualifying clause "with regard to situations or facts subsequent to such ratification" must qualify the extent of the Court's jurisdiction when the latter became operative between the two countries. The Court found it unnecessary to pass upon this particular issue since it sustained the Preliminary Objection of France on the broader ground that the facts leading to the dispute had arisen before April 25, 1931, the date of the French ratification.

In presenting the French position, Professor (now Judge) Basdevant stated:

> "La France est liée par la clause de juridiction obligatoire vis-à-vis de l'Italie à partir seulement du moment où l'Italie est liée elle-même par cette clause pour l'avoir ratifiée, c'est-à-dire à partir du 7 septembre 1931, date de sa ratification. Les deux Puissances sont liées l'une vis-à-vis de l'autre à partir de la date la plus récente, le 7 septembre 1931, *et en vertu de la précision introduite dans la déclaration française, seulement pour limiter l'effet de la clause aux différends qui s'élèveraient au sujet des situations ou des faits postérieurs à cette date.*
>
> Ainsi, et comme conséquence de cette limitation, les deux Puissances sont liées l'une vis-à-vis de l'autre à partir du 7 septembre 1931 à l'égard seulement des faits postérieurs à cette date."[1] [Emphasis added.] Permanent Court of International Justice, *Phosphates in Morocco case*, Series C, No. 85, pp. 1022-1023; see also Series C, No. 84, p. 223, *et seq.*

And in his reply argument Professor Basdevant explained the justification of the French position more fully, as follows:

> "Dans la déclaration française d'acceptation de la juridiction obligatoire, la clause dont il s'agit limite cette juridiction aux différends nés de situations et de faits postérieurs à la ratification de ladite clause. Cette limitation a pour but d'éviter tout effet rétroactif de la juridiction obligatoire, de ne pas soumettre à la juridiction obligatoire des faits qui n'y étaient pas soumis au moment où ils se sont produits.

---

[1] Translation:

"France is bound by the clause of obligatory jurisdiction toward Italy only from moment when Italy herself is bound by that clause on account of having ratified it, that is to say, beginning September 7, 1931, the date of its ratification. The two powers are bound to one another from the latter date, September 7, 1931, *and, by virtue of the specification introduced in the French declaration, only to the effect of limiting of this declaration to the differences which arise concerning situations of facts subsequent to that date.*

Thus, and in consequence of this limitation, the two powers are bound to one another, beginning September 7, 1931, with regard to facts subsequent to that date." [Emphasis added.]

> Supposons qu'un fait se soit produit le 1er septembre 1931; à cette date, il n'était pas soumis à la juridiction obligatoire de la Cour entre la France et l'Italie, pour la bonne raison qu'à cette date l'Italie n'avait pas encore ratifié la clause de juridiction obligatoire. Si, après cette ratification, qui se produisit le 7 septembre 1931, le fait se trouve soumis à la juridiction obligatoire à laquelle il échappait le 1er septembre, l'effet rétroactif qu'on a voulu éviter par la déclaration française se produira." [1] Series C, No. 85, p. 1290; see also Series C, No. 84, p. 714.

See also G. Staedtler, "L'Affaire des Phosphates du Maroc (Exceptions Préliminaires), 20 *Revue de Droit International et de Législation Comparée* (1939), pp. 323, 329.

Like the clause in the French Declaration of April 25, 1931, involved in the *Phosphates in Morocco* case, the qualifying clause in the United States Declaration "has the purpose of avoiding every retroactive effect of the obligatory jurisdiction". Hence, the principle of reciprocity requires that the Court pursuant to Article 36, par. 2, of the Statute deny jurisdiction of the present dispute.

Third Preliminary Objection

The Government of the United States of America respectfully submits that the Court deny jurisdiction of the Application of the Government of the Confederation of Switzerland, for the reason that Interhandel has not exhausted the legal remedies available to it in the United States courts to obtain the return of the same assets which are now sought to be restored in this proceeding.

As shown *supra*, Interhandel's appeal from the dismissal of its suit for return of the assets here in question is under advisement by the Supreme Court of the United States. Should that Court reverse the order of dismissal, there would be the possibility that a return may be secured by Interhandel in further proceedings in the United States courts. Accordingly, under the well-established principle of international law requiring the exhaustion of local remedies before an international proceeding may be instituted, the

---

[1] Translation:

"In the French declaration of acceptance of the obligatory jurisdiction, the clause in question limits this jurisdiction to the disputes arising from situations and facts subsequent to the ratification of said clause. This limitation has the purpose of avoiding every retroactive effect of the obligatory jurisdiction, of not subjecting to the obligatory jurisdiction facts which were not subjected to it at the moment when they originated.

Let us suppose that a fact originated on September 1, 1931; on that date it was not subject to the obligatory jurisdiction of the Court between France and Italy, for the good reason that on that date Italy had not yet ratified the clause of obligatory jurisdiction. If, after that ratification, which took place on September 7, 1931, the fact is subjected to the obligatory jurisdiction, from which it escaped on September 1, the retroactive effect which one wanted to avoid by the French declaration, will be produced."

application of the Confederation of Switzerland cannot be entertained by this Court. Judgment of the Permanent Court of International Justice in the *Panevezys-Saldutiskis Railway* case, Series A/B, No. 76 (February 28, 1939), pp. 4-59. As stated in the *Panevezys* case, the doctrine of exhaustion of local remedies "subordinates the presentation of an international claim to such an exhaustion" (Series A/B, No. 76, at p. 18); cf. the Judgment of the Permanent Court of International Justice in the *Mavrommatis* case (Jurisdiction), August 30, 1924, Series A, No. 2, p. 12.

See also Hackworth, *Digest of International Law* (1943), Vol. 5, pp. 501-504, 509; Freeman, *Denial of Justice* (1938), pp. 404, 408, 412-415; Schwarzenberger, *International Law* (3rd ed., 1957), Vol. 1, pp. 602 ff.; Draft Convention on the "*Law of Responsibility of States for Damage Done in their Territory to the Person or Property of Foreigners*", Article 6, and Comment to Article 6, 23 A.J.I.L. Spec. Suppl. 149, 152-153. This long-standing principle is one of the most firmly established principles of international law. See Vattel, *The Law of Nations* (1863), Book II, Ch. VII, Section 84 and Ch. XVIII, Section 350; F. de Martens, *Traité de Droit International* (1883), Vol. I, p. 445; Phillimore, *Commentaries upon International Law* (1855), Vol. II, Part V, Ch. II, Section III, pp. 3 ff.; Hall, *International Law* (6th ed., 1909) p. 273; Bluntschli, *Le Droit International Codifié* (1874), Section 380; Calvo, *Le Droit International* (1896), Vol. II, Section 864, p. 348; Anzilotti, *La Responsabilité Internationale des États*, in R.G.D.I.P., Tome XIII, p. 8; Moore's *Digest of International Law*, Vol 6, p. 259 ff.; Borchard, *Diplomatic Protection of Citizens Abroad*, pp. 285 ff.

None of the exceptions to the doctrine of exhaustion of local remedies applies to the present case. Clearly, resort to the duly-established courts of the United States remains open and complete redress is available to Interhandel [1]. See the *Panevezys-Saldutiskis* case, Series A/B, No. 76, at p. 18; Statements of Judge Hackworth, the American delegate, in the Third Committee of the Conference for the Codification of International Law, at The Hague, on March 22, 1930. League of Nations Doc. No. C. 351 (c). M. 145 (c) (1930), V. 74.

Nor is this a case where, in accordance with the rulings of this Court, the doctrine of exhaustion of local remedies may be inapplicable because the relief prayed seeks only a declaratory judgment of an alleged treaty violation rather than any restitution of property or indemnity. Compare the two decisions of the Permanent Court of International Justice, both dealing with the question of jurisdiction, in the case of the *German Interests in Polish Upper Silesia*, Series A, No. 6 and Series A, No. 9 (August 25, 1925, and July 26, 1927). In the former judgment, the Court held that the doctrine of

[1] See Section 9 (a) of the United States Trading with the Enemy Act (the text of which is set forth in the Appendix, Exhibit 21, *infra*, p. 359, under which the United States courts are given specific power to order the return of vested property.

exhaustion of local remedies is inapplicable when the only relief sought is a declaratory judgment declaring that provisions of a treaty have been violated. As the Court expressly stated in its Judgment on the Merits of the first application (May 25, 1926) (Permanent Court of International Justice, Series A, No. 7, at p. 81), the first application did not require the Court to indicate what measures on the part of the respondent Government would have been in accordance with the treaty provision. Specifically with respect to the doctrine of failure to exhaust local remedies, the Court stated:

> "It is a much disputed question in the teachings of legal authorities and in the jurisprudence of the principal countries whether the doctrine of *litispendance*, the object of which is to prevent the possibility of conflicting judgments, can be invoked in international relations, in the sense that the judges of one State should, in the absence of a treaty, refuse to entertain any suit already pending before the courts of another State, exactly as they would be bound to do if an action on the same subject had at some previous time been brought in due form before another court of their own country.
>
> There is no occasion for the Court to devote time to this discussion in the present case, because it is clear that the essential elements which constitute *litispendance* are not present. There is no question of two identical actions: the action still pending before the Germano-Polish Mixed Arbitral Tribunal at Paris seeks the restitution to a private company of the factory of which the latter claims to have been wrongfully deprived; on the other hand, the Permanent Court of International Justice is asked to give an interpretation of certain clauses of the Geneva Convention." (Series A, No. 6, at p. 20; see also Series C, No. 9-I, p. 24.)

However, when thereafter the German Government, after obtaining a favorable ruling, filed a new application in which it sought recovery of damages (Series C, No. 13-I, p. 107), the Court, in another decision on jurisdiction, held that the doctrine of exhaustion of local remedies was applicable in that situation, distinguishing its earlier ruling as follows:

> "The question whether the jurisdiction of these tribunals [the Upper Silesian Arbitral Tribunal and the Germano-Polish Mixed Arbitral Tribunal] might prevent the exercise of the jurisdiction bestowed upon the Court by paragraph 1 of Article 23 of the Geneva Convention was brought up before the Court during the proceedings in regard to the jurisdiction in the suit submitted to the Court by the German Government's Application of May 15th, 1925. The Polish Government indeed submitted that that Application could not be entertained until the Germano-Polish Mixed Arbitral Tribunal had delivered judgment in the case concerning the same factory of Chorzów brought by the Oberschlesische on November 10th, 1922, before the Tribunal. The Polish Government also argued that, as it was a question of an alleged destruction of vested rights, the Upper Silesian Tribunal might have jurisdiction under Article 5 of the Convention.

> Some of the reasons for which the Court, in Judgment No. 6, overruled this plea that the suit could not be entertained—for instance the argument relating to the fact that the Parties are not the same—might to some extent be applicable also in the present case. *It should however be observed that the position is not the same, more especially in view of the fact that the German Application of May 15th, 1925, only asked the Court for a declaratory judgment between States, which only the Court could give, whereas the present Application seeks an indemnity which is not necessarily different from that which the Companies on whose behalf it is claimed, might obtain from another tribunal,* assuming that there was one which was competent. For this reason, the Court will not be content merely to refer to Judgment No. 6 and will once more examine the question in relation to the special conditions in which it presents itself on this occasion." [Emphasis added.] (Series A, No. 9, at pp. 26-27.)

See also the description by W. E. Beckett, Chief Legal Adviser of the British Foreign Office, of the first of the two decisions as a case where "Germany at that time did not ask for a decision involving the payment of compensation for the losses suffered by the German companies". ("Les questions d'intérêt général au point de vue juridique dans la jurisprudence de la Cour permanente de Justice internationale", *39 Recueil des Cours*, 1932, I, p. 135, at p. 164) [1]; and the statement by Kaufmann ("Règles générales du droit de la paix", *54 Recueil des Cours*, 1935, IV, at p. 456), emphasizing the difference between the two situations and making it clear that the doctrine of exhaustion of local remedies became applicable when the problem of recovery was introduced into the case [2]. See also

---

[1] The French text reads as follows:

"... l'Allemagne était en droit de demander la décision de la Cour sur cette question, vu qu'il y avait là un différend concernant l'application de la Convention; la possibilité pour les particuliers intéressés d'avoir recours à d'autres tribunaux en vue d'une indemnité n'avait rien à faire avec l'application allemande actuelle, vu que l'Allemagne ne demandait pas à ce moment-là un arrêt comportant le paiement de compensations pour les pertes subies par les sociétés allemandes".

Translation:

"Germany was correct in asking the decision of the Court on this question in view of the fact that a dispute existed as to the application of the Convention; the fact that interested individuals could resort to other tribunals for recovery had nothing to do with the present German application since Germany at that time did not ask for a decision involving the payment of compensation for the losses suffered by the German companies."

[2] The French text reads as follows:

"Ainsi, dans l'affaire de *l'Usine de Chorzow* la Cour n'a pas exigé l'épuisement des recours internes lorsqu'il s'agissait d'un jugement déclaratoire, constatant que la saisie et la reprise de l'usine étaient contraires aux prévisions conventionnelles; mais, s'agissant de la demande en indemnité, elle a jugé nécessaire d'examiner le point de savoir si la société dépossédée avait eu à sa disposition des recours capables de lui assurer l'obtention d'une réparation adéquate et effective."

Translation:

"Thus, in the *Factory at Chorzów* case the Court has not demanded the exhaustion of local remedies because there was a request for declaratory judgment putting on

De Visscher, "Le déni de justice en droit international", *52 Recueil des Cours*, 1935, II, 369, 425.

Clearly, the present case falls within the principles laid down by the Court in its second decision on jurisdiction in the *Chorzów* case. The present Application and Memorial, both praying for restoration of the vested stock of General Aniline & Film Corporation (Application, p. 15, Memorial, p. 143), are not merely requests for declaratory judgments seeking declarations that treaty provisions have been violated; rather, Switzerland, espousing the case of Interhandel, its national, seeks specific relief for the benefit of Interhandel. Accordingly, the doctrine of the exhaustion of local remedies governs and the Court lacks jurisdiction of the present case. This is true not only with respect to the Principal Submissions set forth and amplified in the Memorial (p. 143) but also with respect to all Alternative Submissions contained therein (pp. 143-144). The Alternative Submissions, whether seeking arbitration under the Washington Accord of 1946 or the Treaty of 1931, or conciliation under the 1931 Treaty, simply are steps intended to effect the recovery sought. They are not mere requests for declarations that a treaty provision has been violated. Contrary to the original application of the German Government in the *Chorzów* case, which "only asked the Court for a declaratory judgment between States", the application of Switzerland expressly seeks restoration of property; the various Alternative Submissions merely are alternative ways in which the intended recovery is sought to be accomplished [1].

In all the circumstances of the case, it is therefore submitted that the Third Preliminary Objection based upon Interhandel's failure to exhaust its local remedies, be sustained [2].

Fourth Preliminary Objection

(a) In part (a) of our Fourth Preliminary Objection we stated to the Court that it has been determined by the United States of

---

record that the confiscation and liquidation of the factory were contrary to previous contractual agreements; but when the problem of indemnity was put forward, the court considered it necessary to examine the question whether the damaged company had at its disposal the means of redress able to assure for it an adequate and effective recovery."

[1] To the extent to which they are phrased in language seeking determinations of a declaratory nature, they are similar to paragraph (1) of the prayer for relief of the application filed by the German Government on February 8, 1927 (Series C, No. 13-I, p. 107), with which a statement was sought that because of the violation of the Geneva Convention the Polish Government is required to make good certain injuries. Specific damages were sought only by the second and third paragraphs of that application. The Court (Series A, No. 9, p. 4), nevertheless, held the doctrine of exhaustion of local remedies applicable to the entire application of February 8, 1927, without any exceptions.

[2] See also the case concerning the *Administration of the Prince of Pless*, Permanent Court of International Justice, Preliminary Objection, Order of February 4, 1933. Series A/B, No. 52, pp. 15-16.

America that the sale or disposition of the vested stock in General Aniline & Film Corporation is a matter essentially within its domestic jurisdiction. This determination is not subject to review or approval by any tribunal. Having been made pursuant to paragraph (b) of the Conditions attached to this country's acceptance of the Court's compulsory jurisdiction, the determination operates to remove definitively from the jurisdiction of the Court the matter which it determines. After the United States has made such a determination, the subject-matter of the determination is not justiciable. See *Case of Certain Norwegian Loans*, Judgment of July 6, 1957, *I.C.J. Reports 1957*, pp. 9, 27. Accordingly, the question of the sale or disposition of the shares of General Aniline & Film is not justiciable, and the United States respectfully declines to submit the matter of such disposition or sale to the jurisdiction of the Court. Such declination encompasses all issues raised in the Swiss Application and Memorial (including issues raised by the Swiss-United States Treaty of 1931 and the Washington Accord of 1946), in so far as the determination of the issues would affect the sale or disposition of the shares.

However, the determination pursuant to paragraph (b) of the Conditions attached to this country's acceptance of the Court's compulsory jurisdiction is made only as regards the sale or disposition of the assets. We reaffirm the statement of the United States made by its agent, Mr. Becker, during the oral proceedings before this Court on October 12, 1957, that the "United States Government intends, during the pendency of future proceedings on the Application filed by Switzerland on October 1, 1957, not to dispose of the proceeds which will be derived from the sale of the shares of General Aniline & Film." [1]

As background for the determination that the sale or disposition is a matter essentially within the domestic jurisdiction of the United States, we wish to refer to some of the facts mentioned above (*supra*, p. 304). These facts are here submitted only for the information of the Court; their submission does not in any way modify the conclusion that the determination of the United States is not subject to review or approval by this Court. The above-stated facts show, *inter alia*, that General Aniline & Film Corporation was incorporated under the laws of one of the states of the United States; its plants and properties and other physical assets are located within the United States; and it is engaged in fields of production essential to the defense efforts and war-time needs of the United States. Moreover, the General Aniline stock was vested under the war powers of the United States. By Section 5 (b) of the Trading with the Enemy Act (Exhibit 26, Appendix, *infra*, p. 371), the Congress of the United States empowered the President of the United States to vest any property of any foreign nationals and directed the

[1] See Part II, *Oral Proceedings*, p. 445.

President, *inter alia*, to sell or liquidate such property "in the interest of and for the benefit of the United States". Section 12 of the Act (Exhibit 27, Appendix, *infra*, p. 372) requires that property vested under the Act "be sold only to American citizens", unless the President in the public interest otherwise determines. Accordingly, the manner in which properties, such as General Aniline, are to be sold or otherwise disposed of, is a matter for determination solely by the President of the United States.

(b) In part (b) of its Fourth Preliminary Objection the Government of the United States respectfully submits that the Court, in the exercise of its powers under Article 36, par. 6, of the Statute, should deny its jurisdiction, for the reason that acts of seizure and retention of stock in an American corporation, done in the exercise of the war powers, are not matters of international law but rather are recognized by international law to be within the domestic jurisdiction of the United States.

As mentioned *supra*, p. 305, the stock here in issue was vested as enemy property under the war powers of the United States; General Aniline is an American corporation; its plants are located within the United States and its products are essential to the defense within the United States and its products are essential to the defense efforts and war-time needs of the United States. The Swiss Application and Memorial seek to raise issues as to the seizure and retention of those vested assets. But these matters are issues within the domestic jurisdiction of this country, and the municipal laws and regulations providing for the seizure and retention of enemy assets are within the sovereign rights of this country and not subject to international supervision.

In the *Panevezys-Saldutiskis Railway* case the Court said:

> "In principle, the property rights and the contractual rights of individuals depend in every State on municipal law and fall therefore more particularly within the jurisdiction of municipal tribunals." (P.C.I.J. Reports, Series A/B, No. 76, p. 18.)

The disposition and the control over the shares of a corporation organized under municipal law have always been considered to be an integral part of the sovereign rights of a State. Thus, for instance, Field, discussing the legal position of property situated within the territorial limits of a State under the heading "Local character of public funds and corporate shares" (Art. 572), stated as follows:

> "Public funds or stocks, and shares or other interests in, or obligations of, nations or States, or of bodies politic or corporate, or other artificial bodies owing their existence to local laws, are governed in respect to the validity and effect of transactions affecting the same, or property therein, by that law which gives them existence, subject, however, to such further restrictions as are imposed by the law of the place where the same are delivered or transferred." Field, *Outlines of an International Code* (1876), p. 398.

This opinion was shared by Fiore who, discussing the contents and the scope of the right of imperium of a sovereign State, pointed out that this right is exercised with respect to "things actually in the territory" (Arts. 248 and 291) and that no legal relation concerning things located in the territory of the State shall be held effective if the result entails a derogation from the laws of public policy relating to property or from public municipal law (Art. 293). Fiore, *International Law Codified and its Legal Sanctions* (1918), pp. 174 ff. and 191 ff.; see also Feifer, *Le Domaine Réservé* (1937), p. 117. This is especially true when such disposition involves shares of stock in a domestic corporation vested under a statute providing for the war-time seizure of enemy property.

From the earliest days of the republic, the Supreme Court of the United States, under its interpretation of international law, has repeatedly held that Congress has the power to authorize the confiscation of enemy private property on the outbreak of war.

> "... In dealing with the question under international law, the consistent doctrine of the Supreme Court has been that any inviolability which might be granted to enemy private property within the jurisdiction was due merely, as Lord Mansfield had said, to the generosity of the sovereign." Rubin, "Inviolability' of Enemy Private Property", *11 Law and Contemporary Problems* 166, 170 (1945).

In *Ware* v. *Hylton*, 3 Dallas 199 (1796), Mr. Justice Chase, speaking for the Supreme Court of the United States, said (at p. 226):

> "It appears to me, that every nation at war with another is justifiable, by the general and strict law of nations, to seize and confiscate all movable property of its enemy (of any kind or nature whatever) wherever found, whether within its territory, or not."

In *Brown* v. *United States*, 8 Cranch 110 (1814), Chief Justice Marshall, likewise speaking for the Supreme Court, stated (at p. 122):

> "Respecting the power of government no doubt is entertained. That war gives to the sovereign full right to take the persons and confiscate the property of the enemy wherever found, is conceded. The mitigations of this rigid rule, which the humane and wise policy of modern times has introduced into practice, will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished, and when the sovereign authority shall chuse to bring it into operation, the judicial department must give effect to its will..."

Citing a host of international law authorities, Mr. Justice Story, in *Brown* v. *United States*, *supra*, considered "the rule of the law of nations to be, that every such exercise of authority is lawful, and rests in the sound discretion of the sovereign of the nation". 8 Cranch at p. 145.

Various international arbitral tribunals have also held that the requisitioning of enemy assets during the war is recognized by

international law as a matter within the discretionary power of a State falling within its domestic jurisdiction in the exercise of the principle of self-preservation. For example, the Greek-Turkish Arbitral Tribunal has held that requisitioning is:

> "... the manifestation of the unilateral will of the authorities exercising their power of employing the resources found within the country for purpose of national defense. It finds sufficient justification in the necessity created by the war." *Recueil des Décisions des Tribunaux mixtes*, Vol. VIII, p. 230.

Professor Cheng, in discussing the principle of self-preservation as a recognized doctrine of international law, makes the following comment:

> "By conceding to states the right of requisition and angary, international law allows a nation's military needs to take precedence over private property rights situated in territory subject to its authority. Apart from specific treaty restrictions upon its exercise, the existence of this right of requisition and angary is strictly conditional upon, and circumscribed by, the presence of such military needs. How they may best be met is, of necessity, a matter to be decided by the state alone." Cheng, *General Principles of Law as Applied by International Courts and Tribunals* (1953), p. 43.

See also the statement by Professor Kaufmann concerning the right of a State to adopt war-time measures, stressing that these measures are recognized by international law as domestic matters, in saying:

> "A war in our times is accompanied by *economic warfare* which is aimed at the destruction of the economic foundations on which the military, naval, and air powers [of the enemy] are based, and which is also aimed to break the will of national defense, by attacks directed against the economic forces of the civilian population. The economic warfare, which is clearly distinguished from war as such, thus has resulted in the development of distinct, definite and formal juridical forms, namely the seizure of the assets, rights and interests of enemy individuals, located within the national territory and, in the case of such seizure, the liquidation of these assets; ... The Treaty of Versailles and other related treaties contain in their Part X detailed regulations of these legal forms. The regulations have upheld the measures relating to the seizure and liquidation of these assets and have extended their application to the period after the war; ..." Kaufmann, *Règles générales du droit de la paix* (1936), p. 85 [1].

[1] The original French text is as follows:

"La guerre moderne est accompagnée d'une *guerre économique*, destinée, non seulement à détruire la base économique sur laquelle reposent les forces militaires, maritimes et aériennes, mais aussi à rompre la volonté de défense nationale par les attaques dirigées contre les forces économiques de la population civile. La guerre économique, qui se distingue nettement de la guerre proprement dite, a ainsi donné lieu au développement de figures juridiques distinctes, déterminées et formalisées: la saisie des biens, droits et intérêts des particuliers ennemis, sis dans le territoire national, et, le cas échéant, leur liquidation; ... Le Traité de Versailles et les Traités

The Swiss Application (pp. 9, 10, 11) and Memorial (pp. 101 ff.) seek to overcome these principles of international law by asserting that a decision by the Swiss Compensation Office, affirmed by the Swiss Authority of Review in 1948, to the effect that Interhandel is a Swiss concern and not German owned or controlled, was a decision under the Washington Accord of May 25, 1946; and that as a result Article IV of the Accord, providing that "the Government of the United States will unblock Swiss assets in the United States" requires the Government of the United States to release the vested General Aniline stock located in this country. We submit that simply by citing an obviously inapplicable provision of an international agreement dealing with other matters entirely, the Swiss Government cannot remove the case from the sphere of domestic jurisdiction.

There is no need here to set forth in detail the numerous reasons why Article IV of the Washington Accord is of no relevance whatever in the present case. In the first place, the proceedings in Switzerland, upon which the Memorial and Application now rely, were not even decisions under the Washington Accord. Rather, the proceedings were purely Swiss, before a Swiss tribunal on a Swiss matter—the blocking of Interhandel by Swiss authorities under the Swiss decree of February 16, 1945 [1]. Moreover, even if the decision of the Swiss Authority of Review would have been under the Accord, that decision still could have no effect on the vested General Aniline stock which is property in the United States, for the Accord (except Article IV thereof, mentioned *infra*) relates only to German property in Switzerland and the authority of the Swiss Authority of Review was as a consequence limited to German property "in Switzerland". This is borne out by the clear language of the Accord, its stated purpose to deal with the claim of the Allies to "title to German property in Switzerland by reason of the capitulation of Germany and the exercise of supreme authority within Germany" [2], by the record of the negotiations of the Accord and by its construction by the parties [3].

Finally, even if the decision of the Swiss Authority of Review had been a decision under the Washington Accord, there would still be no obligation of the United States under Article IV of the Washington Accord to return the vested General Aniline stock. Article IV of the Accord required the United States to "unblock Swiss assets", which referred merely to lifting or removing the

---

parallèles contiennent dans leur Xe Partie une réglementation détaillée de ces formes: ils ont maintenu les mesures de saisies et liquidations prises, et prolongé leur application dans la période d'après-guerre; ..."

[1] For the text of the Swiss decree, see Annex 11 to Memorial, p. 199.

[2] For the full text of the Washington Accord of May 25, 1946, see Exhibit 28, Appendix, *infra*, p. 374.

[3] For the details see the statements in the memorandum of the Government of the United States of America, January 11, 1957, Annex 30 to Memorial [*Vide* Annex 15 to Application, p. 52, at pp. 58-62].

controls on all recognized Swiss property then maintained by the United States Treasury Foreign Funds Control—a matter clearly understood by all parties at the time of the negotiation of the Washington Accord, and thereafter, to be entirely different from the *vesting* of *enemy* assets by the Alien Property Custodian (later the Attorney General) in the beneficial interest of the United States [1].

A subject-matter which is within the domestic jurisdiction of a country as part of its war powers does not lose such character simply by the citation of an international agreement which has no relevance and deals with a totally different topic.

Submissions

Whereas the dispute presented to this Court by the Swiss Application and Memorial arose before August 26, 1946;

Whereas, in any event, the dispute arose before July 28, 1948;

Whereas Interhandel, whose case the Swiss Government is espousing, still has available to it remedies in the United States courts;

Whereas the United States of America has determined, pursuant to paragraph (b) of the Conditions attached to this country's acceptance of the compulsory jurisdiction of the Court, that the sale or disposition of the vested shares of General Aniline & Film Corporation here involved is a matter essentially within the domestic jurisdiction of this country; and

Whereas the seizure and retention, in the exercise of the war powers, of the stock in General Aniline & Film Corporation are matters which, under international law, are within the domestic jurisdiction of the United States of America;

MAY IT PLEASE THE COURT
TO JUDGE AND DECIDE

(1) *First Preliminary Objection*

that there is no jurisdiction in the Court to hear or determine the matters raised by the Swiss Application and Memorial, for the reason that the dispute arose before August 26, 1946, the date on which the acceptance of the Court's compulsory jurisdiction by this country became effective;

(2) *Second Preliminary Objection*

that there is no jurisdiction in the Court to hear or determine the matters raised by the Swiss Application and Memorial, for the reason that the dispute arose before July 28, 1948, the date on which the acceptance of the Court's compulsory jurisdiction by this country became binding on this country as regards Switzerland;

[1] For the details, see the statements in the memorandum of the United States, January 11, 1957, Annex 30 to Memorial [*Vide* Annex 15 to Application, p. 52, at pp. 62-66].

(3) *Third Preliminary Objection*

that there is no jurisdiction in this Court to hear or determine the matters raised by the Swiss Application and Memorial, for the reason that Interhandel, whose case Switzerland is espousing, has not exhausted the local remedies available to it in the United States courts;

(4) *Fourth Preliminary Objection*

(a) that there is no jurisdiction in this Court to hear or determine any issues raised by the Swiss Application or Memorial concerning the sale or disposition of the vested shares of General Aniline & Film Corporation (including the passing of good and clear title to any person or entity), for the reason that such sale or disposition has been determined by the United States of America, pursuant to paragraph (b) of the Conditions attached to this country's acceptance of this Court's jurisdiction, to be a matter essentially within the domestic jurisdiction of this country; and

(b) that there is no jurisdiction in this Court to hear or determine any issues raised by the Swiss Application or Memorial concerning the seizure and retention of the vested shares of General Aniline & Film Corporation, for the reason that such seizure and retention are, according to international law, matters within the domestic jurisdiction of the United States.

The United States of America reserves the right to supplement or to amend the preceding submissions, and, generally, to submit any further legal argument.

Respectfully submitted.

LOFTUS BECKER,
Agent of the United States of America,
The Legal Adviser, Department of State.

DALLAS S. TOWNSEND,
Co-agent of the United States of America,
Assistant Attorney General, Department of Justice.

Of Counsel:

STANLEY D. METZGER, ESQ.,
Assistant Legal Adviser,
Department of State.

PROFESSOR SIDNEY B. JACOBY,
Georgetown University Law School,
Washington, D. C.

PAUL E. MCGRAW, ESQ.,
Attorney, Department of Justice.

The undersigned, Ambassador of the United States of America to The Netherlands, hereby certifies the authenticity of the above signatures of Loftus Becker, Agent, and Dallas S. Townsend, Co-agent, of the United States of America.

The Hague, June 1958.

(Signed) PHILIP YOUNG,
Ambassador of the United States of America.

Appendix

Exhibit 1

VESTING ORDER PURSUANT TO SECTION 5 (b) OF THE TRADING WITH THE ENEMY ACT, AS AMENDED

I, HENRY MORGENTHAU, Jr., Secretary of the Treasury, acting under and by virtue of the authority vested in me by the President pursuant to section 5 (b) of the Act of October 6, 1917, as amended by section 301 of the First War Powers Act, 1941, finding after investigation that the following shares of the stock of the General Aniline & Film Corporation, a corporation organized under the laws of the State of Delaware, are the property of nationals of a foreign country designated in Executive Order No. 8389, as amended, as defined therein, and that the action herein taken is in the public interest, do hereby order and declare that such shares including all interest therein are hereby vested in the Secretary of the Treasury to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States:

Certificate number	Number of shares	Class of shares	Registered in the name of
027	1,500	A	Geheimrat Professor Dr. Carl Bosch, Ludwigshafen, Germany.
028	500	A	Geheimrat Professor Dr. Carl Bosch, Ludwigshafen, Germany.
023	1,500	A	Geheimrat Dr. Hermann Schmitz, Berlin, Germany.
029	500	A	Geheimrat Dr. Hermann Schmitz, Berlin, Germany.
0656	20,000	A	Osmon Aktiengesellschaft, Schaffhausen, Switzerland.
0657	10,000	A	
0658	10,000	A	
0659	10,000	A	
0660	5,000	A	
0661	5,000	A	
0662	5,000	A	
0663	500	A	
0664	500	A	
0665	500	A	
0720	132	A	
022	300,000	A	Internationale Gesellschaft für Chemische Unternehmungen Aktiengesellschaft, Basel, Switzerland.
137	100	A	
061	50	A	
065	90	A	
092	726	A	
095	500	A	
0568	10,000	A	
0569	10,000	A	
0570	10,000	A	
0571	10,000	A	
0572	10,000	A	

Certixcate number	Number of shares	Class of shares	Registered in the name of
0578	10,000	A	Internationale Gesellschaft für Chemische Unternehmungen Aktiengesellschaft, Basel, Switzerland.
0574	5,000	A	
0575	5,000	A	
0576	5,000	A	
0577	5,000	A	
0578	5,000	A	
0579	1,000	A	
0580	1,000	A	
0581	1,000	A	
0582	350	A	
BB13	650,000	B	L. D. Picke ring & Companyin custody for N.V. Maatschappij voor Industrie en Handelsbelangen, Amsterdam, The Netherlands.
32	100,000	B	N.V. Maatschappij voor Industrie en Handelsbelangen, Amsterdam, The Netherlands.
33	100,000	B	
34	100,000	B	
1	400,000	B	Chemo Maatschappij voor Chemische Ondernemingen, Amsterdam, The Netherlands.
20	200,000	B	
4	500,000	B	Banque Fédérale (Eidgenössische Bank, A.G.), Zürich, Switzerland.

Such property and any proceeds thereof shall be held in a special account pending further determination of the Secretary of the Treasury. This shall not be deemed to limit the power of the Secretary of the Treasury to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return or compensation should be made.

Any person not a national of a foreign country designated in Executive Order No. 8389, as amended, asserting any interest in said shares of stock or any party asserting any claim as a result of this Order may file with the Secretary of the Treasury a notice of his claim, together with a request for hearing thereon, on Form TFVP-1 within one year of the date of this Order, or within such further time as may be allowed by the Secretary of the Treasury.

This Order shall be published in the Federal Register.

By direction of the President:

(Signed) H. MORGENTHAU, JR.,
Secretary of the Treasury.

FEBRUARY 16, 1942.

Exhibit 2

OFFICE OF ALIEN PROPERTY CUSTODIAN

WASHINGTON

VESTING ORDER NUMBER 907

Re: Certain capital stock and other interests in General Aniline & Film Corporation.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

(a) Finding that I.G. Farbenindustrie, A.G., whose last known address was represented to the undersigned as being Frankfurt, Germany, is a national of a designated enemy country (Germany);

(b) Finding that the shares of stock (constituting a substantial part, namely, approximately 97% of all outstanding shares) of General Aniline & Film Corporation, a Delaware corporation, which is a business enterprise within the United States, which shares were covered by vesting order issued by the Secretary of the Treasury under date of February 16, 1942, and which are described therein, and which are thereafter vested by the undersigned pursuant to Vesting Order No. 5 of April 24, 1942, and delivered to the undersigned by the Secretary of the Treasury, were, prior to such vesting thereof by the Secretary of the Treasury, owned by or held for the benefit of said I.G. Farbenindustrie, A.G.;

(c) Finding, therefore, that said business enterprise is a national of a designated enemy country (Germany);

(d) Finding that 16,186 shares (other than the shares referred to in subparagraph (b) and those vested by the undersigned pursuant to Vesting Order Number 155 of September 19, 1942), of Class A common stock of said business enterprise are owned by or held for the benefit of nationals of designated enemy countries (Japan and Germany), the names in which such shares are registered and the names and last known addresses of the persons for whom such shares are held and the number of shares held for each, are respectively set forth in Exhibit A attached hereto and made a part hereof;

(e) Determining, therefore, that said 16,186 shares of stock are interests in the aforesaid business enterprise held by nationals of designated enemy countries (Japan and Germany);

. . . . . .

(l) Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order of Act or otherwise; and

(m) Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the shares of stock and other interests described in subparagraphs (d) ... to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

Such property and any or all of the proceeds thereof shall be held in a special account pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national", "designated enemy country" and "business enterprise within the United States" as used herein shall have the meanings prescribed in Section 10 of said Executive Order.

Executed at Washington, D.C. on February 15, 1943.

(Signed) Leo T. Crowley,
LEO T. CROWLEY.

Exhibit 3

THIRTEENTH ANNUAL REPORT OF GENERAL ANILINE & FILM CORPORATION, 1941

230 Park Avenue, New York City

OPERATING DIVISIONS
GENERAL ANILINE WORKS, NEW YORK CITY
AGFA ANSCO, BINGHAMTON, N.Y.
OZALID PRODUCTS, JOHNSON CITY, N.Y.

BOARD OF DIRECTORS

John G. Baragwanath
Walter H. Bennett
William C. Breed
Ralph Budd
W. C. Bullitt
R. Hutz [1]
John E. Mack
Charles L. McCann
D. A. Schmitz [1]
Robert L. Stevens
Nelson S. Talbott
Hugh S. Williamson

OFFICERS

John E. Mack, President
F. A. Gibbons, Secretary
H. S. Williamson, Treasurer

[1] Suspended by order of the United States Treasury Department.

TO THE STOCKHOLDERS:

This Annual Report covers the operations of your company in its 13th year.

FINANCIAL INFORMATION

With the close of 1941, the corporation completed two full calendar years as an operating company. Results of operations for these years are:

	1941	1940
Consolidated Net Income before Federal Taxes	$10,035,323.12	$5,266,050.68
Federal Taxes on Income	5,919,591.77	1,159,993.61
Consolidated Net Income	4,115,731.35	4,106,057.07
Earnings per common A share	5.61	5.59
Dividends paid per common A share	3.00	2.75
Dividends paid per common B share	.30	.275

. . . . . .

OPERATIONS

Sales rose from $28,221,498.79 in 1940 to $41,387,402.91, representing a 46.7% increase. Government business, direct and indirect, contributed greatly to this rise.

Your corporation's General Aniline Works Division continued as the principal domestic producer of dyestuffs for Army and Navy textiles such as uniforms, tents, blankets, etc.

The Agfa Ansco Division, oldest and second largest producer of photographic materials in the country, enjoyed the most successful year in its history. War work accounts for a substantial portion of Agfa Ansco's business.

The business of the Ozalid Products Division increased 60% over 1940. The products of the Division are now sold almost exclusively to war industries and the Government.

In 1940 your corporation acquired approximately 900 patents and patent applications in fields of chemistry other than those in which the corporation has been active. Several products covered by these inventions are already being manufactured on a commercial scale. These products include carbonyl iron powder, also polyvinyl ethers usable as waxes, adhesives and water repellents. New developments in the Agfa and Ozalid Divisions include an Ozaphane sound film and equipment, processes for reproducing microscopic prints on paper, and a photographic process for the reproduction of reticules on optical glass.

New lines of products introduced in 1941 and the expansion of the corporation's existing manufacturing facilities, particularly in the field of dyestuffs and dyestuff intermediates, resulted in expenditures for new construction in the amount of $3,200,563.81. These expenditures compare with depreciation charges of $1,830,953.20. The depreciation policy of the company has been such that it has now in use fully depreciated buildings and equipment with an original cost of $6,600,000.00.

Your corporation is using every facility possible to increase its output in vital war materials. This will curtail many lines of production not

essential for the war. The difficulties of obtaining raw materials will have a direct bearing on the volume of production. Rising wage rates and increased cost of materials will have an adverse effect on cost of production.

. . . . . .

RELATIONS WITH U.S. GOVERNMENT

The beginning of 1941 saw renewed efforts on the part of the corporation's directors to have I.G. Chemie sell its stock in the company to American investors. These efforts failed. During this time, the corporation kept the Government informed of its actions and made every effort to co-operate with the announced policies of the country.

During 1941 a number of changes took place in the management of the corporation. Subsequent to the removal of Mr. D. A. Schmitz as president by action of the Board of Directors and on Oct. 31, 1941, Mr. John E. Mack was elected president. Several American directors of German birth resigned in the Fall of the year to make room for the election of directors of national standing.

Since June 18, 1941, your corporation has been operating under a business license issued by the United States Treasury Department under authority of Executive Order 8389, as Amended. On February 16, 1942, the Secretary of the Treasury, under an Executive Order delegating the authority of the President of the United States under the Trading with the Enemy Act, directed the transfer to himself on the books of the corporation of all shares of stock registered in the name of certain foreign nationals, which shares constitute approximately 97% of the outstanding shares of the corporation. This transfer was duly made.

The progress made by the corporation during the thirteen years of its existence speaks for itself. This achievement was made possible by the great loyalty, skill and enthusiasm of our employees. Everyone in our oganization is doing his full share to contribute to a successful conclusion of the war. On behalf of the Board of Directors, I wish to express my deep appreciation.

JOHN E. MACK, *President.*

NEW YORK, N.Y.
February 27, 1942.

. . . . . .

GENERAL ANILINE WORKS DIVISION

This division is comprised of two modern plants, one located at Rensselaer, N.Y., on the East bank of the Hudson, opposite Albany, having an area of over 50 acres and consisting of 27 buildings; the other occupies a plot of 105 acres at Linden, N.J., and consists of 46 buildings. These plants, employing about 2,500 people, are principally engaged in the production of a complete line of dyestuffs and intermediates, which are suitable for almost every purpose for which dyestuffs are used.

The division's products are principally used in textiles, leather goods, paper, paint and plastics. Of major importance are the Vat Colors which provide the fastest dyes obtainable for cotton, rayon and linen. Equally important are Acid Alizarine Colors, the best of the wool dyestuffs, also Naphtols and their derivatives, used primarily for printing cotton goods.

General Aniline Works also manufactures textile auxiliary products which are used in the dyeing and finishing processes. Among these is Igepon, a soap substitute; Tanigan, a superior tanning assistant; E-mulphors, largely used in the rubber trade; Nekal, a wetting agent; and Ramasit and Ramasol, lagely used for water-proofing fabrics.

Extensive research laboratories employ scores of chemists occupied in improving and diversifying the products manufactured. Research in the field of vinyl compounds has been continued and satisfactory progress has been made with polyvinyl ethers to be used as waxes, adhesives and water-repellent agents.

At present over 60% of the production of General Aniline Works goes into defense work. The company is the largest producer in the country of khaki and other dyes used for uniforms and other materials of the armed forces.

During the year General Aniline Works erected at its Linden plant a unit for the production of Carbonyl Iron Powder, a unique form of iron consisting entirely of minute uniform spheres of an onion skin structure which, when used in cores is outstanding in the high frequency range of radio reception and transmission and is greatly superior to other material used for this purpose. The capacity of this unit is substantially in excess of the present government requirements for all branches of the armed forces.

AGFA ANSCO DIVISION

The story of the Agfa Ansco Division is almost synonymous with the history of photography in the United States. Now situated at Binghamton, N.Y., this organization had its beginning in 1842 when Edward Anthony established in New York City the first photographic supply house in this country. Today more than 3,300 workers are employed in more than 56 buildings which include one of the world's most modern film manufacturing plants.

Agfa Ansco manufactures a complete line of photographic materials including cameras, films, papers, chemicals and many other items of equipment. Operations are carried out by highly skilled technicians and a standard of cleanliness and precision is maintained that results in the high quality and uniformity of Agfa Ansco products.

The division takes pride in the receipt of two awards from the Academy of Motion Picture Arts and Sciences. The first, in 1936, was for the development of Agfa Ansco Infra-Red Film, while the second, in 1938, cited the performance of two fast panchromatic films—Supreme and Ultra-Speed.

Also noteworthy was the perfection in 1937 of Agfa Ansco Superpan Press and Super Plenachrome Press Films. These revolutionary films were three to four times faster than any previous light-sensitive material.

Today, photography has become extremely important in modern warfare and a growing portion of the production of Agfa Ansco sensitized materials is devoted to this purpose. In addition, many of the machines in the Camera plant, normally used for civilian production, are being turned over to the production of non-photographic war materials.

War production, then, is Agfa Ansco's chief pre-occupation as it celebrates its 100th anniversary.

OZALID PRODUCTS DIVISION

The Ozalid Products Division, organized in 1933, as Ozalid Corporation, is located at Johnson City, New York, with additional plants in Detroit, Mich., and Oakland, Cal. It manufactures Ozalid whiteprint and developing machines, and in its coating department sensitizes the papers, foils, tracing cloth and other materials used in these machines. The Ozalid reproduction process, unlike blue printing, yields a positive print in black, blue or maroon line upon a white background. The processing, considerably easier than for blue prints, is done in special Ozalid machines which, developed over the last few years, have revolutionized the industry. The largest machines, preponderantly used by the United States Government, the aircraft and the automotive industry, permit the reproduction of drawings at a speed up to 20 ft. per minute.

The ability of Ozalid paper to reproduce true to scale has made it particularly valuable to manufacturers of precision instruments. Army, Navy and war industries are extensive users of Ozalid products.

The Division's Ozaphane Department has been concerned with the development of a new type of sound recording on thin cellophane and reproduction by means of a beam of light and a photo-electric cell. This process is low in cost, permits an extremely long playing time from a small spool and results in a fidelity of sound hitherto unknown.

The department has also developed special Ozaphane film for duplicating microfilm negatives as well as a machine for printing and developing this film. It is the only process commercially available for direct duplication of microfilm.

Commercial application has begun on a new process for reproducing microscopic prints on paper, and the demand has temporarily exceeded the available capacity. Furthermore the department recently produced a photographic process for the reproduction of reticules on optical glass. It is expected that application of this process will be of real value for military and naval purposes.

Exhibit 4

GENERAL ANILINE & FILM CORPORATION ANNUAL REPORT FOR 1942

TO THE STOCKHOLDERS:

General Aniline & Film Corporation was formerly one of the principal foreign operations of the German chemical trust known as I.G. Farbenindustrie. The Company's products were almost entirely developments of research carried on in Germany and the key to its operation and progress was held by Germans, who determined what it manufactured and sold. It is now controlled by the United States Government as a result of the vesting of stock formerly foreign-held, by the Hon. Leo T. Crowley, Alien Property Custodian of the United States.

On March 16, 1942, the management of the Company was entrusted to a new Board of Directors. This is the first annual report of that Board.

On April 7, 1942, the Hon. Henry Morgenthau, Secretary of the Treasury of the United States, addressed a letter, approved by Mr. Crowley, to the new President of the Company describing the basic policy by which the Directors should be governed. This letter stated that

those chosen to manage the Company should restaff the organization with competent Americans and, after its Americanization, apply the Company's activities and facilities to the fullest extent to the war effort, operating it in all ways in accordance with sound American business methods. The Directors were also advised by Mr. Crowley that it was the Government's policy that the Company should never return to German ownership, German control of operations or German influence.

The Board of Directors of the Company has endeavored to manage its affairs in conformity with these instructions and with the interests of the stockholders as a whole.

Prior to April 7, 1942, government agencies caused the dismissal or suspension of a substantial number of the important employees of the Company, including many of its principal executives, engineers, chemists and key operators. Thus the Board took over the Company sheared not only of its traditional source of research and direction, but also of its executive personnel. There was no time to train successors and therefore it was necessary to fill the vacant positions from the outside. The replacement of these individuals with men of the proper technical abilities and experience during a war period, when the normal scarcity of high calibre personnel is accentuated, became the most difficult undertaking with which the Board was faced.

This organization problem has now been solved and the Americanization of the Company has been successfully completed.

Twice—once in 1917 and again in 1941—this country has been thrust into a World War partly dependent on its enemies for many strategic materials developed from research. In some cases, by fortuitous circumstances and the enterprise of American industry, this country had managed to get from German sources possession of patents and know-how relating to vital chemical processes and products.

The Board considered that this Company should never again have to depend upon sources within Germany or any other foreign country for the technical knowledge necessary for it to supply such basic military products as its plants could be adapted to manufacture. Therefore, it became obvious to the new Board that in order for the Company to serve effectively in the war effort and be of most value to the government, or to survive after the war in its highly technical and competitive field, it would be necessary for the Company to create in this country an integrated research and development organization of at least equal calibre to that of the German chemical trust on which the Company had heretofore depended. Accordingly, the Board decided that the Company must establish an effective research organization, properly equipped and staffed, so that with the necessary protection of an effective patent system, it could fulfill its obligations to the stockholders and the public. Steps taken to fulfill these obligations are described on page 3.

The period of transition in 1942 has necessarily been a trying one for management and employees alike. To the loyalty and efforts of more than 6,000 men and women who comprise the Company's organization should go full credit for such success as the Company has enjoyed in the past year.

PRODUCTION AND THE WAR EFFORT

The new management faced a double difficulty at the start. Not only was it necessary for a new staff to take over a going concern of a compli-

cated technical nature and keep it up to the former standards of operation, but the change had to be made at a time when it was necessary for the Company, like many other American companies, to convert from a peace-time to a war-time footing. The period of re-staffing coincided almost exactly with the period of conversion.

Despite these complications, the task of converting the Company's activities to war channels has been accomplished and all-time high production records for the Company have been set during the past three months in four out of five of its plants.

The dyestuffs and chemical operations of the Company have been materially improved during the year. The Process Development Department, organized in the latter part of the year, has already made substantial improvements in quality, has increased productive efficiency, and has devised methods of recovering critical spent materials previously wasted. Capacity to produce certain dyestuffs and chemicals particularly needed for the war effort has been increased more than 80% over previous peak output. The required capital expenditures were relatively minor and involved only small amounts of critical materials. While sales of such products are at a new high, demand has not yet equalled the newly demonstrated capacity.

Restrictions on the use of numerous dyestuffs for civilian purposes as well as on the manufacture of certain textiles have adversely affected sales.

The Company has contracted to sell to the War Department its entire output of a certain chemical product for conversion into an important explosive. Large quantities of other special chemicals used by the Army and the Navy are also being furnished. The Company's facilities for the production of Carbonyl Iron Powder, a product of strategic importance, have been operated to capacity and recently have been substantially increased. Under contract with the War Department, the Company has designed a standby plant and has trained a group of Army officers in the operation of the process. The Company has also fabricated in its own shops a substantial quantity of apparatus for the Government's new plant.

The plants engaged in the production of dyestuffs and chemicals include extensive machine shop facilities for ordinary repairs and maintenance. Through close cooperation with the field office of the War Production Board these facilities, normally idle about sixteen hours per day, have been used to relieve bottlenecks in the production of a variety of parts required by other war industries in the locality.

Owing to the increased demand for photographic and X-ray film on the part of the armed services, the War Production Board has established rigid control over the production and distribution of film products. The Company has exerted every effort to make available the largest possible quantity of photographic materials with existing plant and equipment. Production of film products in 1942 was greater than in any previous year and the current rate of production is higher than at any time in the past. Ansco Color film was introduced through sales to the government and certain war industries. Sales of sensitized materials to the government have been at prices substantially below normal levels.

The Camera Works was converted during the year to the manufacture of special war products, in great part non-photographic and largely new to the Company. The dollar value of the products currently resulting

from these new operations is nearly double the value of the largest previous peace-time output. In attaining production on such new products, heavy expenses were incurred which were not recovered out of 1942 sales.

Total output of Ozalid products in 1942 was greatly in excess of that of the preceding year. Substantially all the Ozalid machines produced by the Company were required to meet the needs of the government and others holding high priority ratings.

Your Government has directed the Company to apply its activities and facilities to the fullest extent to the war effort. This has been done.

. . . . . .

By order of the Board of Directors,

NEW YORK, N.Y. ROBERT E. MCCONNELL, *President.*
MARCH 24, 1943.

Exhibit 5

GENRAL ANILINE & FILM CORPORATION ANNUAL REPORT FOR 1943

TO THE STOCKHOLDERS:

General Aniline & Film Corporation is managed by a Board of Directors nominated by the Alien Property Custodian of the United States and elected by the Stockholders. The Company was formerly one of the principal foreign operations of the German Chemical Trust known as I.G. Farbenindustrie. In February 1942 control of the foreign owned stock was seized by the United States Government. Title to 90.47% of the Common A Stock and to all of the Common B Stock remains vested in the Alien Property Custodian.

The policy of the Board of Directors, in conformity with the directives of the Custodian, is to operate the Company as a completely American organization in accordance with sound business methods, applying its activities and facilities to the fullest extent to the aid of the war effort, and looking forward to its continued operation as an American owned and controlled enterprise.

. . . . . .

PRODUCTION

The Company's production is carried on by three Divisions: the General Aniline Works Division, the Ansco Division (formerly Agfa Ansco), and the Ozalid Products Division.

The General Aniline Works Division manufactures primarily dyestuffs and auxiliaries used in connection with the dyeing process and for other purposes. It is one of the principal producers of the types of dyestuffs required for military uniforms and equipment. Production of such dyestuffs in 1943 was increased more than 60% over 1942 and more than 120% over 1941.

Auxiliaries manufactured by the General Aniline Works Division include synthetic detergents, the production of which has been largely

increased to meet requirements of the Armed Forces for mobile laundries and for special soaps effective in sea water.

This Division also manufactures carbonyl iron powder, which is used principally for the production of cores for radio equipment required by the Armed Forces; and Polectron resins, used in substitutes for mica, which have enabled the Armed Forces to obtain an important new type of electrical equipment.

The Ansco Division manufactures film and other photographic products, and until August 1942 produced cameras for civilian trade. The Camera Plant is now devoted substantially 100% to war products, the output of which was more than quadrupled in 1943 over 1942. Production of film in 1943 increased about 18% over 1942 and larger Government requirements for film products were met by reducing the amount available to the civilian market.

The Ozalid Products Division is engaged in the sensitizing of paper and cellulose acetate films for the reproduction of drawings and printed or typed copy, and in the manufacture of machines for their exposure and development. Output of sensitized materials, after an increase of 81% in 1942 over 1941, showed a further expansion of 17% in 1943 over 1942.

ARMY-NAVY E

Employees of the Ansco and Ozalid Divisions have each been awarded the Army-Navy E for "great accomplishment in the production of war equipment". Appropriate ceremonies will be held at Binghamton and Johnson City, New York on March 27.

RESEARCH

The 1942 Annual Report discussed the need for, and establishment of, the new Research Division. The research staff has been approximately doubled during the past year and the personnel of the Market Development and Patent Departments has been increased.

The major efforts of the research staff are devoted to strengthening the Company's position in its established lines of dyestuffs, intermediates, photographic materials and Ozalid products, all of which are essential to the Armed Services. Close attention is also being given to the opportunities presented for expansion into more diversified and rapidly growing chemical fields. Research and development have already yielded new products valuable to the war effort which hold interesting possibilities for peace-time applications. Additional products are in the pilot plant stage and still others are being actively studied.

PATENTS

The Company is the owner of more than 4,000 patents and patent applications in chemical and other fields. The Board of Directors has recognized the responsibility imposed by ownership of these patents as well as the necessity of continuing research in American industry to further the successful prosecution of the war. Accordingly it has expanded its research program to develop these patents and has adopted and pursued the following patent licensing policy:

All patent holdings are available for licensing for war requirements upon request of the proper Government authority.

Patent rights in those fields in which the Company is not actually engaged are available for licensing on reasonable terms and royalties to responsible and capable interests to the end that the most effective use may be made thereof in the varied phases of war production.

Patent rights in those fields in which the Company is actually engaged are also available for licensing for the duration of the war on reasonable terms and royalties, to responsible and capable licensees when the Company is unable to supply the products it manufactures under such patents in sufficient quantities to meet the demands for war use or vitally war-connected use, or when it is so requested by proper Government authority.

The research laboratories and organization have been established and are operating with these ends in view.

. . . . . .

By order of the Board of Directors,

NEW YORK, NEW YORK
MARCH 23, 1944.

GEORGE W. BURPEE, *President.*

Exhibit 6

REGULATION RESTRICTING THE RETRANSFER OF SHARES OF STOCK VESTED AND SOLD BY THE ALIEN PROPERTY CUSTODIAN

§ 503.9 *(General Order No. 35)*

Under the authority of the Trading with the Enemy Act, as amended, including without limitation sections 5 (b) and 12 thereof, Executive Orders No. 9095, as amended, and No. 9142, and pursuant to law, the undersigned, determining

That in many instances shares of stock in domestic corporations which had been vested by the Alien Property Custodian as enemy owned or controlled at the time of the First World War, and were subsequently sold by him were, at the time of the Second World War, found to have come under enemy ownership or control as a result of mesne sales or transfers; and

That such ownership and control were detrimental to the national defense and tended to impede the war effort of the United States; and

That in the case of corporations closely related to the defense economy of the United States the public interest requires that others than American Nationals be prevented, subsequent to the vesting and sale by the Alien Property Custodian to American Nationals of shares of stock in said corporations, from acquiring ownership or control thereof; and

That it is necessary in the public interest that the Alien Property Custodian, upon sale of vested stock in such corporations to American Nationals, place certain restrictions upon the resale thereof or the transfer of any interest therein, in order to preclude subsequent acquisition of ownership or control thereof by others than American Nationals;

hereby issues the following regulation:

§ 503.9 *Regulation restricting the retransfer of shares of stock vested and sold by the Alien Property Custodian*

(a) The Alien Property Custodian designate from time to time by order issued pursuant to this regulation certain corporations subject to his supervision, jurisdiction and control, which are of importance in fields closely related to the defense economy of the United States. Corporations so designated are hereinafter referred to as "key corporations."

(b) The term "vested stock" as used in this regulation shall be deemed to mean shares of stock in key corporations vested by the Alien Property Custodian and hereafter sold by the Alien Property Custodian and shall also include any shares issued in exchange for vested stock or issued by way of stock dividend thereon or split-up thereof or shares acquired pursuant to any rights or warrants accruing to the holders of vested stock notwithstanding any recapitalization, consolidation, merger or reclassification.

(c) Only American Nationals shall be qualified to become owners or holders, directly or indirectly, by mesne conveyance or otherwise, of any interest in vested stock.

"American National" shall mean: (1) the United States, any state or territory thereof, as well as any political subdivision, agency or instrumentality of the United States or any such state or territory, (2) any individual who is a citizen of and resident in the United States, (3) any partnership organized and having its principal place of business in the United States or a territory thereof, 75% of the members of which are citizens of and resident in the United States who own at least a 75% interest in the partnership, and (4) any corporation, association or other organization organized under the laws of the United States or any state or territory thereof and having its principal place of business therein, 75% of the voting stock of which is owned or held for the benefit of American Nationals, and which corporation, association or other such organization is not controlled by persons other than American Nationals; *provided, however,* that individuals, partnerships, corporations, associations or organizations which have been determined by the Alien Property Custodian to be acting for or on behalf of a national of Germany or Japan, and persons who, by order of the Alien Property Custodian issued pursuant hereto, are determined not to be qualified to own or hold vested stock, shall not be deemed American Nationals for purpose of this regulation, irrespective of whether they would otherwise qualify under subparagraphs (1), (2), (3) or (4) hereof; and *provided further* that any individual, partnership, corporation, association or organization acting, holding, or purporting to act or hold, directly or indirectly, for or on behalf of or for the benefit of any country, individual, partnership, corporation, association or organization which is not an American National shall not be deemed an American National for purposes of this regulation.

. . . . . .

(h) The provisions of this regulation and of Orders issued pursuant thereto shall continue in effect until rescinded or superseded, notwith-

standing the end of the present war or the end of the present emergency or the termination of supervision of the corporation affected.

(40 Stat. 411, 50 U.S.C. App. 1; 55 Stat. 839, 50 U.S.C. App. (Supp.) 616; E.O. 9142, 7 F.R. 2985, E.O. 9193, 7 F.R. 5205).

Executed at Washington, D.C., this 9th of September, 1946.

(Signed) James E. Markham,
JAMES E. MARKHAM,
Alien Property Custodian.

[11 Federal Register 9924 September 10, 1946, 8 Code of Federal Regulations (1952 ed.) Sec. 505.10].

Exhibit 7

REGULATION RESTRICTING THE RETRANSFER OF SHARES OF STOCK VESTED AND SOLD BY THE ALIEN PROPERTY CUSTODIAN

§ 503.9 Order No. 3 under § 503.9 *(General Order No. 35)*

Under the authority of the Trading with the Enemy Act, as amended, and Executive Orders issued thereunder, and pursuant to law, the undersigned, determining

That the Alien Property Custodian has vested over 97% of the common capital stock of General Aniline & Film Corporation by Vesting Orders Nos. 5, 248 and 907, and has assumed supervision, jurisdiction and control of said corporation pursuant thereto and by virtue of General Order No. 31;

That General Aniline & Film Corporation is engaged in the manufacture, among other things, of polectron resins, photographic equipment and supplies, dyestuffs, and other products which have proved of prime importance both directly to the armed services and indirectly to war and other essential industries during the war and will continue to be vital to national preparedness;

That General Aniline & Film Corporation is a corporation of importance in a field closely related to the defense economy of this country; and

That the public interest requires the prevention of renewed ownership or control by other than American Nationals of those shares of stock of such corporation which were vested by the Alien Property Custodian during the present war;

hereby issues the following regulation:

§ 503.9-3 Order No. 3 under § 503.9 *(General Order No. 35)*

General Aniline & Film Corporation, a Delaware corporation, is hereby designated as a key corporation within the meaning of § 503.9 *(General Order No. 35)*.

Exhibit 9

UNITED STATES TREASURY DEPARTMENT

FOREIGN PROPERTY CONTROL COMMITTEE

Application by Bank of the Manhattan Company (New York 14251) for 650,000 Shares.

Application by General Aniline & Film Corporation (New York 45711) for lots of 300,000 and 600,000 shares, respectively.

IN THE MATTER OF APPLICATIONS FOR LICENSES TO TRANSFER COMMON "B" SHARES OF GENERAL ANILINE & FILM CORPORATION (FORMERLY AMERICAN I.G. CHEMICAL CORPORATION),

TO

INTERNATIONALE GESELLSCHAFT FÜR CHEMISCHE UNTERNEHMUNGEN A.G. OF BASEL, SWITZERLAND.

This memorandum has been prepared in order to summarize and make clear the status of the above applications, pending before the Foreign Property Control Committee of the Treasury Department since June and August 1940 respectively.

These applications are for licenses to transfer Common B shares of Gneral Aniline & Film Corporation (formerly American I.G. Chemical Corporation) to Internationale Gesellschaft für Chemische Unternehmungen A.G. (hereinafter referred to as "I.G. Chemie") a Swiss corporation of Basel, Switzerland. The applications were made pursuant to the provisions of Executive Order No. 6560 dated January 15, 1934, as amended by Executive Order No. 8389 dated April 10, 1940, and Executive Order No. 8405 dated May 10, 1940, which order as so amended prohibits, among other things, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant thereto, certain transactions involving the property in which *The Netherlands* or any national thereof has at any time on or *since May 10, 1940*, had any interest of any nature whatsoever, direct or indirect.

THE APPLICATIONS

The first application dated *June 12, 1940*, and filed by Bank of the Manhattan Company is for a license to transfer 650,000 Common B shares of General Aniline & Film Corporation held by Bank of the Manhattan Company in a custody depot in the name of N.V. Maatschappij voor Industrie en Handelsbelangen (hereinafter referred to as "N.V."), a Dutch corporation of Amsterdam, The Netherlands, to a custody depot with that bank in the name of I.G. Chemie. Said 650,000 shares (represented by Certificate No. 5) were and are registered in the name of L. D. Pickering & Co., New York, as nominee for Bank of the Manhattan Company.

The second application dated *August 29, 1940*, and filed by General Aniline & Film Corporation is for a license to transfer to I.G. Chemie 300,000 Common B shares (represented by Certificates Nos. 32, 33 and 34 for 100,000 shares each) of General Aniline & Film Corporation registered in the name of N.V., and 600,000 Common B shares (repre-

sented by Certificate No. 1 for 400,000 shares and Certificate No. 20 for 200,000 shares) of General Aniline & Film Corporation registered in the name of Chemo Maatschappij voor Chemische Ondernemingen N.V. (hereinafter referred to as "Chemo"), a Dutch corporation of Amsterdam, The Netherlands.

DOCUMENTS FILED WITH COMMITTEE

. . . . . .

6. Affidavit of D. A. Schmitz, president of General Aniline & Film Corporation, sworn to September 3, 1940, stating in substance, among other things, that on *April 30, 1940* (which date we are advised is erroneously stated in said affidavit as May 2, 1940), *Mr. Schmitz received in Basle,* Switzerland, from an officer of I.G. Chemie certificates for 300,000 shares of Common B stock standing in the name of N.V. together with a blank assignment for said shares, a blank assignment for an additional 600,000 shares of Common B stock standing in the name of Chemo and a confirmation that the certificates for said 600,000 shares were held by Briesen & Schrenk, attorneys at law of New York City, and that upon Mr. Schmitz's return to New York City such certificates and assignments were deposited by him with General Aniline & Film Corporation, were and are intended to be used in connection with the sale by I.G. Chemie to General Aniline & Film Corporation of 900,000 shares of Common B stock of General Aniline & Film Corporation and are still in the custody of General Aniline & Film Corporation.

. . . . . .

SAXE, COLE & ANDERSON,
By MARTIN SAXE,
Counsel for I. G. Chemie and Bank of The Manhattan Co., Custodian.

BREED, ABBOTT & MORGAN,
By WILLIAM C. BREED,
Counsel for General Aniline & Film Corporation.

Dated JANUARY 2, 1941.

Exhibit 10

Feb. 16, 1942. Handed to the Swiss Minister by Mr. Dean Acheson.

AIDE MEMOIRE

The Minister of Switzerland is informed that pursuant to section 5 (b) of the Trading with the Enemy Act, as amended by section 301 of the First War Powers Act, 1941, approximately 97 percent of the outstanding shares of General Aniline & Film Corporation of Delaware are vesting today in the Secretary of the Treasury. This action is being taken because, in the judgment of the Secretary of the Treasury, these shares are actually controlled by German interests, and because it is important that this company be freed from German control in order that its

productive facilities may be effectively utilized in this country's war effort. The Minister of Switzerland is assured that there is no intention on the part of this Government to impair, injure, or otherwise adversely affect legitimate Swiss interests.

In this case every care has been taken to make sure that no legitimate Swiss interest should be adversely affected. The order under which the stock is vesting in the Secretary of the Treasury provides that such property and the proceeds thereof should be held in special account pending the further determination of the Secretary of the Treasury. This Order also states that any person "asserting any claim as a result of this Order may file with the Secretary of the Treasury a notice of his claim, together with request for a hearing thereon ... within one year of the date of this Order ...". Thus it is the intention of this Government to afford an opportunity for legitimate Swiss interests to be asserted and for appropriate steps to be taken in order that these legitimate Swiss interests may not be adversely affected.

DEPARTMENT OF STATE,
Washington, February 16, 1942.

Exhibit 11

BERN, *January 19, 1946.*

DR. REINHARD HOHL,
Counselor of Legation,
Federal Political Department, Neuengasse 26, Bern.

DEAR MR. HOHL: I refer to my letter of January 16 by which I conveyed the request of my Government that the provisional blocking of the assets of I.G. Chemie be extended beyond the date of January 31. In the last paragraph of my letter I alluded to the reported changes in the structure of this concern and inquired as to its significance.

My Government has now requested me to convey to you its concern with the circumstance that this change in the structure of a concern which it regards as German controlled and which has been blocked as such by the competent authorities of your Government ostensibly was permitted by those authorities.

My Government asks that I indicate to you its desire that no changes in the structure or organization of any company at present blocked under Federal decrees with respect to German assets be permitted. It regards this matter as particularly important in view of the proposals made by your Government to discuss with the Allied Governments the problem of German assets in Switzerland. My Government intends to revert to this subject in any conferences which may be held in the near future with respect to this problem.

I am advised by my British and French colleagues that they are addressing letters to you in a parallel sense.

Sincerely yours,

MARCEL E. MALIGE.

Exhibit 12

DÉPARTMENT POLITIQUE FÉDÉRAL
DIVISION DES AFFAIRES ÉTRANGÈRES

BERNE, *le 6 novembre 1945.*

Monsieur DANIEL J. REAGAN,
Conseiller près la Légation
des États-Unis d'Amérique, Berne.

CHER MONSIEUR,

J'ai l'honneur de vous exposer ce qui suit au sujet de la Société Internationale pour Entreprises Chimiques S. A. à Bâle (I.-G. Chemie) dont vous avez eu plusieurs fois l'occasion de parler avec mon prédécesseur M. Kohli:

Aussitôt après l'entrée en vigueur de l'arrêté du 27 avril dernier, complétant le blocage des avoirs allemands, l'Office suisse de compensation décida d'y soumettre I.-G. Chemie en vertu de l'art. 9, al. 3, selon lequel les avoirs d'une société peuvent être frappés provisoirement d'indisponibilité en cas de doute sur le caractère allemand de cette société. Il allait être ainsi fait quand le Conseil d'administration d'I.-G. Chemie invita l'Office suisse de compensation à procéder immédiatement à une révision complète des livres et des documents de la société. Cette proposition fut acceptée, étant entendu que, tant que durerait cette révision, il ne serait disposé d'aucun fonds d'I.-G. Chemie, exception faite des dépenses administratives indispensables à la marche de l'affaire.

L'expertise, faite par trois spécialistes de l'Office suisse de compensation, a duré un mois et s'est étendue à diverses sociétés liées financièrement à I.-G. Chemie.

Malgré le fait que cette révision n'ait amené la découverte d'aucun document permettant de conclure qu'I.-G. Chemie est une société contrôlée de l'Allemagne, il a été décidé récemment que ses avoirs seraient soumis au blocage pour un temps limité, afin de permettre à vos Autorités, si elles persistent à considérer cette holding comme étant sous influence allemande, d'en apporter la preuve. Il a ainsi été tenu compte de l'importance que votre Gouvernement attache à cette affaire.

Je vous saurais donc gré d'informer vos Autorités de ce qui précède en soulignant que les investigations très approfondies faites en Suisse n'ont pas permis d'établir l'existence actuelle d'un lien entre I.-G. Chemie et I.-G. Farben. Vous voudrez bien dire également à Washington que les Autorités fédérales comptent maintenir ce blocage provisoire jusqu'au 31 janvier 1946 et le lever ensuite à moins que, avant cette date, du côté américain ou allié, la preuve n'ait été apportée que I.-G. Chemie doit être considérée comme une société sous influence prépondérante allemande, au sens des arrêtés des 16 février / 27 avril / 3 juillet 1945. Dans ce cas, il va sans dire que le blocage provisoire deviendrait définitif.

Ce délai expirant au 31 janvier devrait être amplement suffisant si, comme l'a déclaré tout récemment M. Ostrow, du Consulat des États-Unis à Zürich, à deux représentants de l'Office suisse de compensation, les Autorités américaines en Allemagne ont maintenant les documents nécessaires en main pour prouver que cette affaire est économiquement allemande. M. Ostrow a annoncé d'autre part la prochaine arrivée en

Suisse d'un spécialiste de cette question et il va sans dire que les autorités suisses intéressées sont prêtes à recevoir cette personne pour s'entretenir avec elle.

Recevez, cher Monsieur, l'assurance de mes sentiments les meilleurs.

(Signé) R. HOHL.

[Translation]

FEDERAL POLITICAL DEPARTMENT

DIVISION OF FOREIGN AFFAIRS

BERNE, *November 6, 1945.*

MR. DANIEL J. REAGAN,

Counsellor of the Legation of the United States of America, Berne.

DEAR SIR: I have the honor to transmit to you the following statement in the matter of Société Internationale pour Entreprises Chimiques S. A. Basle (I.G. Chemie), on which you had several talks with my predecessor M. Kohli:

Immediately after the decree of last April 27 went into effect which completed the blocking of German assets, the Swiss Compensation Office decided to bring I.G. Chemie under it by virtue of art. 9, par. 3, according to which the assets of a company may be frozen temporarily if some doubt exists about the German character of that company. This was about to be done, when the Board of I.G. Chemie invited the Swiss Compensation Office to proceed immediately to a complete examination of the books and papers of the company. This proposal was accepted with the understanding that, for the duration of this examination, no funds of I.G. Chemie should be disposed of, except for administrative expenses which were indispensable in the course of business.

The investigation which was made by three experts of the Swiss Compensation Office took one month and it extended to several companies tied financially to I.G. Chemie.

In spite of the fact that this investigation did not lead to the discovery of any document which would permit the conclusion that I.G. Chemie is a company under the control of Germany, the decision was made recently to have its assets blocked for a limited time, in order to permit your authorities, if they persisted in regarding this holding as under German influence, to furnish the proof for it. This way one has taken into account the importance which your Government attaches to this matter.

I would like you to inform your authorities of the foregoing and in doing this to stress the point that the very thorough investigations in Switzerland have failed to establish the actual existence of a tie between I.G. Chemie and I.G. Farben. You could also inform Washington that the Federal Authorities are going to maintain this temporary blocking until January 31, 1946, and to raise it thereafter unless prior to that date proof has been furnished on the part of the Americans or Allies that I.G. Chemie has to be considered a company predominantly under German influence within the meaning of the decrees of February 16, April 27, and July 3, 1945. It goes without saying that in this case the temporary blocking will become definitive.

This period which expires on January 31 should be amply sufficient if, as Mr. Ostrow of the Consulate of the United States at Zürich has stated recently to two representatives of the Swiss Compensation Office, the American authorities in Germany have obtained the documents necessary to prove that this matter is German in an economic sense. Mr. Ostrow has also announced the forthcoming visit in Switzerland of an expert in this question and it goes without saying that the interested Swiss authorities are ready to receive this person for talks with him.

I remain,

Very sincerely yours, *(Signed)* R. HOHL.

Exhibit 13

THE FILE MAY 22, 1946.

IRVING J. LEVY

Swiss Negotiations.

There was a meeting in Mr. Jones' office on May 21, 1946, attended by Messrs. Schwabe, Ott, and Schneberger, representing the Swiss Government, and Messrs. Jones, Hilken, Boskey, Isenbergh, and me. The Swiss reviewed the difficulties in the past in their investigation of I.G. Chemie. They claim that they had made a very thorough investigation of all aspects of the case and ran down all leads including Sturzenegger. They say there is no question that I.G. Chemie was founded by I.G. Farben, but the reorganization of 1939 and 1940 leaves them without any evidence of continuing ownership by Farben. They point to their inability to get any of the evidence which the Allies have acquired in Germany and indicated that the action which they took to block Chemie cannot be sustained unless some evidence of Farben ownership is forthcoming from us. Chemie has brought some sort of administrating action in Switzerland to unblock their accounts and the Swiss have thus far delayed action, but believe that they cannot postpone consideration of Chemie's application much longer and on the present state of the record, they cannot successfully defend it.

It was accordingly agreed that there should be a mutual exchange of information in Switzerland. They promised us full access to their files and full cooperation except that they repeated that no direct approach could be made by our people to witnesses; that it would be necessary to work through the Swiss. I take it that they did not mean that we would not be able to interview witnesses or examine the records of the Swiss company, but that we would have to work with the Swiss procedurally. This because of the old question of Swiss sovereignty and the refusal to let foreign representatives approach witnesses, etc. directly without clearing with the Swiss.

The Swiss brought up the question of Mr. Wilson's application to see his clients in Switzerland and the unfairness of denying the client access to his attorney. I was informed by Mr. Boskey informally that Wilson will receive a license to go to Switzerland in the near future.

The arrangement was left that as soon as Schwabe and Ott return to Switzerland, which will be in the very near future, they will inform us and they will be ready at any time thereafter to meet our representatives and to inaugurate this joint inquiry. Mr. Jones indicated his own plans to go to Switzerland early this summer and he may wish to time the inquiry so that it may take place when he is there.

Exhibit 14

SCHWEIZERISCHE VERRECHNUNGSSTELLE
OFFICE SUISSE DE COMPENSATION
UFFICIO SVIZZERO DI COMPENSAZIONE
Zürich

Börsenstrasse 26

Telephon 72.770
MO/ka.
Direction

Monsieur HARRY LEROY JONES,
Ambassade des États-Unis de l'Amérique du Nord, Berne.

ZÜRICH, *le 10 août 1946*

MONSIEUR,

Nous référant à nos entretiens en Amérique concernant le blocage ou le déblocage de la maison "Interhandel", Bâle, et nos observations lors de nos différents pourparlers, nous nous permettons de vous exposer ce qui suit:

Comme vous le savez, nous avons fait deux revisions concernant cette maison. Suivant le résultat de ces recherches detaillées nous sommes d'avis que la maison "Interhandel" ne peut être bloquée. Néanmoins, nous l'avons bloquée provisoirement, étant donné que les représentants des États-Unis ont déclaré, à maintes reprises, qu'ils possèdent des documents, prouvant que la maison "Interhandel" est contrôlée par les Allemands. Malheureusement nous n'avons pas encore pu prendre connaissance de ces documents.

D'autre part, lors de nos négociations à Washington, nous sommes convenus que vous viendrez en Suisse au mois de juin pour nous soumettre vos moyens de preuve y relatifs et pour élucider en commun accord la question du contrôle allemand de la maison précitée. A notre regret, nous n'avons pas encore reçu, jusqu'à présent, les dits moyens de preuve. En outre, vous nous avez informés qu'à ce sujet vous devez vous rendre en Allemagne pour quelque temps.

Vu que Mr. le Dr. Ott qui s'occupe de cette affaire en particulier doit prendre ses vacances dès lundi le 12 crt. et étant donné que l'Office Suisse de Compensation doit traiter encore un grand nombre d'autres cas, nous nous permettons de vous suggérer de nous soumettre les documets sur lesquels vous basez votre opinion que la maison "Interhandel" est contrôlée par les Allemands et de nous confirmer vos constatations faites à ce sujet jusqu'à présent, afin qu'entretemps nous puissions éventuellement faire des recherches supplémentaires.

Mr. le Dr. Ott sera loin pendant 15 jours. Entretemps vous pourriez peut-être vous rendre en Allemagne. Dès le retour du prénommé les pourparlers peuvent être repris, afin que l'affaire en question puisse être liquidée aussitôt que possible.

Nous croyons que cette manière de procéder est la meilleure, étant donné que d'une part vous devez vous rendre en Allemagne et d'autre

part Mr. le Dr. Ott doit prendre ses vacances à partir du 12 crt. car dès fin août il lui est impossible de s'éloigner de Zürich.

Veuillez agréer, Monsieur, l'expression de nos sentiments distingués.

OFFICE SUISSE DE COMPENSATION.

[Translation]

SCHWEIZERISCHE VERRECHNUNGSSTELLE
OFFICE DE COMPENSATION
UFFICIO SVIZZERO DI COMPENSAZIONE
Zurich
Borenstrasse 26

MO/ka.

Mr. HARRY LEROY JONES,
Embassy of the United States of America, Berne.

ZÜRICH, *August 10th, 1946.*

DEAR SIR: Referring to our conference in America concerning the blocking and unblocking of the firm "Interhandel", Basle, and to our observations at the time of our different talks, we wish to state as follows:

As you know, we have made two investigations concerning this firm. According to the results of our detailed researches, we are of the opinion that the firm "Interhandel" should not be blocked. Nevertheless, we blocked it provisionally in view of the fact that representatives of the United States have declared several times that they possess documents proving that the firm "Interhandel" is controlled by Germans. Unfortunately, we have not yet been able to learn the nature of these documents.

Moreover, at the time of our negotiations in Washington, we agreed that you would come to Switzerland in the month of June to submit to us your means of proof relative to the matter and to explain in common accord the question of German control of the said firm. To our regret we have not yet received up to the present time the said means of proof. Furthermore, you have informed us on this subject that you must go to Germany for some time.

Since Dr. Ott who is particularly in charge of this matter must take his vacation starting Monday, the 12th of August, and since the Swiss Office of Compensation must handle a large number of other cases, we take the liberty of suggesting to you to submit to us the documents upon which you base your opinion that the "Interhandel" firm is controlled by Germans and to confirm to us your statements on this subject hitherto made, to the end that we eventually shall be able to make our supplemental investigations.

Dr. Ott will be away for fifteen days. In the meantime you will be able to make your trip to Germany. Upon the return of Dr. Ott the conferences can be taken up again, to the end that the affair in question can be liquidated as soon as possible.

We believe that this manner of proceeding is the best since on one hand you must make a trip to Germany, and on the other, Dr. Ott must take his vacation beginning with the 12th, because from the end of August it will be impossible for him to leave Zürich.

Please accept, sir, the expression of our distinguished sentiments.

SWISS OFFICE OF COMPENSATION.

Exhibit 15

MEMORANDUM

To: Mr. Plitt — AUGUST 16, 1946.
From: Harry Conover

Mr. Jones and I called this afternoon at the office of Mr. Fontanel (Mr. Mann was unable to accompany us because of an unanticipated call to depart as soon as possible for Paris). Mr. Fontanel was assisted in the conversations by Mr. Grenier. I conveyed Mr. Mann's apologies for his inability to attend the meeting and thanked Mr. Fontanel for being so kind as to receive us.

. . . . . .

Mr. Fontanel expressed surprise at the enormity of the case and the problem of analysis and at the misunderstanding concerning procedure which existed on the part of the respective participants in the Washington discussions. He stated that he had yesterday called upon Mr. Petitpierre and presented to him Mr. Jones' letter; that Mr. Petitpierre had stated most certainly that I.G. Chemie would not immediately be unblocked; but that it was improper for the SCO to make available to American or other foreign representatives documents relating to a firm which, after two investigations by the SCO, had been determined to be Swiss-owned. Mr. Petitpierre, therefore, felt that it was incumbent upon the American authorities to present evidence to contradict these findings.

. . . . . .

H. C.

Exhibit 16

The Legation of Switzerland has been instructed to make the following statement regarding Internationale Handels- und Industrie-beteiligungen A.G. (Interhandel), formerly known as I.G. Chemie, Basle, Switzerland.

Two particularly thorough investigations carried out by the Swiss Compensation Office as early as 1946, which were especially aimed at the clarification of alleged German control, have had a negative result.

It may be recalled that various United States Government agencies, and also an official report of the War Department, asserted to have at hand conclusive proof of cloaking. No evidence, however, has been submitted to the Swiss authorities, despite repeated requests. Because of lack of proof against Interhandel and in view of the substantial time which has elapsed since the investigations were completed, it appears very likely that the competent Swiss authority which has allowed an appeal by Interhandel must soon reverse the previous decision; i.e., must lift the blocking of Interhandel.

Provided that the appeal is successful, the Swiss authorities are confident that a favorable settlement will be reached with respect to the stock of the General Aniline and Film Corporation, which belongs to Interhandel and which was vested in the Alien Property Custodian in February 1942.

June 4, 1947.

Aide Memoire from the Legation of Switzerland.

Exhibit 17

MEMORANDUM

The Department of State refers to the aide-memoire of the Legation of Switzerland of June 4, 1947 (R-300-5b Sch/md) regarding Internationale Handels- und Industriebeteiligungen A.G. (Interhandel), formerly known as I.G. Chemie, Basle, Switzerland.

The question of the disposition to be made of this case is one which under the terms of the Accord and Annex thereto must be dealt with through the Joint Commission. Under these circumstances the Government of the United States in conformity with the obligations it undertook under the Washington Accord of May 25, 1946, is unable to consider the questions raised in the reference note in any other forum than the Joint Commission.

During the course of the negotiations leading to the Accord of May 25, 1946, the United States representatives made clear that a decision on the Interhandel case can have no effect of any settlement of or decision on the vesting action by the Alien Property Custodian of February 1942 of the stock of the General Aniline and Film Corporation. The United States Government has not changed its views in this matter.

DEPARTMENT OF STATE,
Washington, June 18, 1947.

Exhibit 18

AIDE-MEMOIRE

The Department of State desires to call the following matter to the attention of the Government of Switzerland.

The Attorney General of the United States has called to the attention of the Department the importance of the problem arising out of the inability of the proper authorities of the United States to make any investigations in Switzerland relating to property located in the United States and vested or subject to vesting by the Office of Alien Property of the Department of Justice. The points made by the Attorney General of the United States are as follows:

1. The question of the relevance of the Swiss-Allied Accord of May 25, 1946, to the problem of investigation.

The comments of the Attorney General on this point are as follows:

"The Swiss Legation, in its aide-memoire of October 1, 1947, has taken the position that the Washington Accord of May 25, 1946, gives the Swiss Compensation Office exclusive jurisdiction to make investigations 'of persons and companies on Swiss territory'. The incident which gave rise to the aide-memoire did not concern property in the United States, but the Swiss Compensation Office has taken the same position with respect to cases which involve property located in this country which has been vested as German. In one such case, all of the Swiss parties directly concerned having consented to an examination of evidence in Switzerland, representatives of the Department of Justice journeyed to that country to make the

agreed upon investigation. They were there informed by an official of the Swiss Compensation Office that the provisions of the Accord prohibit the making of investigations in Switzerland by this Department, and as a result the investigation could not be made. Because of the position taken by the Swiss Government this Department has also been compelled to postpone several other important investigations.

"The position of the Swiss Government is without foundation. The Washington Accord obligates the Swiss Compensation Office, which has jurisdiction over the assets in Switzerland of firms blocked under Swiss law, to investigate the status of property in Switzerland suspected of being German-owned, but does not provide that such investigations are to be made by the Swiss Compensation Office exclusively. German assets located outside of Switzerland are not within the scope of the Accord, and the Accord does not give the Swiss Compensation Office the authority to conduct investigations involving such property. Property vested by the United States, and the investigations this Department desires to conduct with respect to such property, are governed only by the Trading with the Enemy Act, and are wholly unaffected by the Washington Accord and the related Swiss statutes with respect to the blocking of German property by Switzerland."

The Swiss Government will note that the position stated by the Attorney General is and has been the consistent position of the Government of the United States since May 25, 1946, and that, concurrently with the signing of the Accord of May 25, 1946, officials of the Department of State stated to officials of the Swiss Delegation that the problem of property in the United States held through Swiss institutions allegedly on behalf of German nationals was not subject to the provisions of the Accord.

2. The relation of the problem of investigations to judicial action in courts of the United States.

The views of the Attorney General on this matter are as follows:

"The attitude of the Swiss Government, if maintained, will be brought to the attention of the United States courts. A fundamental principle underlying the procedure followed in the United States district courts is that each party to a lawsuit shall have the right to a full inspection of all relevant documents before trial, in order that all pertinent evidence may be brought before the courts. In the event that a party is not permitted by his adversary to inspect relevant books, records or other documents, an appeal may be made to the court for appropriate sanctions, including the entry of a judgment dismissing the suit. It is our intention, in the event that the Swiss Government persists in its refusal to permit this Department to conduct investigations in Switzerland, to appeal to the courts for the dismissal of suits instituted by Swiss plaintiffs to recover vested property. The fact that Swiss citizens are the plaintiffs and must carry the burden of proof in these cases is a factor which the courts will consider when ruling on motions to dismiss filed by this Department."

3. The effect of this problem on the possibility of administrative returns and on the judicial remedy now provided by the United States legislation.

The views of the Attorney General on this matter are as follows:

"The continued refusal by the Swiss Government to permit investigations to determine the status of vested property will also prevent the Office of Alien Property from making administrative returns based on claims filed by Swiss citizens and can result in Swiss nationals losing the right to maintain suits for the return of vested property. Such suits are instituted with the consent of the United States. This consent is an act of grace on the part of this Government, revocable at any time and subject to such conditions as the United States desires to impose. The continuance of the authorization by this Government to be sued by aliens is considered to be conditioned upon the requirement that the aliens will comply with the procedures adopted for the conduct of litigation in our courts and that the Governments to which the aliens owe allegiance will not frustrate the applicable laws of the United States. The Swiss position leaves the Department of Justice without means of obtaining information vital to the defense of lawsuits instituted by Swiss citizens with the consent of the United States. This Government cannot be expected to continue to consent to be sued by Swiss citizens if the Accord is employed without warrant by the Government of Switzerland to deny to the United States its rights as a defendant."

In transmitting these views of the Attorney General of the United States to the Government of Switzerland, the Department of State reiterates its desire, constantly stated over the course of the past several years, that problems relating to the Accord of May 25, 1946, and to questions considered either by the Swiss or the United States authorities to be relevant to the Accord may be amicably and expeditiously resolved.

DEPARTMENT OF STATE,
Washington, April 21, 1948.

Exhibit 19

LEGATION OF SWITZERLAND
WASHINGTON 8, D. C.

The Minister of Switzerland presents his compliments to the Honorable the Secretary of State and has the honor to call his attention to the following matter.

1. The assets of Société Internationale pour Participations Industrielles et Commerciales S.A., also known as Internationale Industrie- & Handelsbeteiligungen A.G.; formerly known as Société Internationale pour Entreprises Chimiques S.A. (I.G. Chemie), also formerly known as Internationale Gesellschaft für Chemische Unternehmungen A.G., (and hereinafter called Interhandel), vested in the Office of Alien Property, apparently were seized under the assumption that the company, founded on the initiative of a German combine in 1928, reflected interests in the sphere of section 5 (b) of the Trading with the Enemy Act, as amended.

2. Although neither the Swiss authorities nor the American Government has produced evidence against Interhandel, the Swiss blocking provisions were applied provisionally.

3. Interhandel's appeal against this blocking was submitted to the competent Authority of Review, provided for by the Washington Accord of April 25, 1946. Upon completion of extremely thorough investigations made by the Swiss Compensation Office, and after the submission of the result thereof by the Swiss Compensation Office to the Joint Commission, and after their joint cooperation in relation thereto, the Authority of Review, on January 5, 1948, retroactively lifted the blocking of Interhandel. The allegation of an enemy control had proved to be without foundation.

4. According to Annex III, paragraph 2, of the Washington Accord, the three allied Governments may, within one month, require the difference to be submitted to arbitration, if the Joint Commission is in disagreement with any decision of the Authority of Review. Since the three allied Governments failed to take this step, the decision of the Authority of Review declaring Interhandel a Swiss concern has become final and binding upon all parties to the Accord.

5. Under Article IV of the Washington Accord, the Government of the United States agreed to the release of Swiss assets in the United States.

The Minister would therefore appreciate it if the Department of State would contact the competent Government agencies with a view to having the vested property returned to Interhandel. The annexed documents are transmitted solely to describe the vested property and to reflect Interhandel's title thereto.

WASHINGTON, D.C., *May 4, 1948.*

430-8-48

ENCLOSURES

Form APC-1A—Notice of Claim for Property—concerning 455,488 shares of the A stock and 2,050,000 shares of the B stock of General Aniline and Film Corp.
Form APC-1A—Schedule 9B—Characterization of Corporate Claimant.
Supplements (with annexes) Nos. 1, 2, 3, 4, 5, 5A, 6, 6A, 7, 7A, 7B, 7C, 7D, 8, 8A, 8B, 9, 9A, 9B, 9C, 10, 10A, 10B, 10C, 10D, 11, 11A, 11B, 11C, 11D, 12, 12A.
Form APC-1A—Concerning 176 shares of the A stock of General Aniline & Film Corp.
Form APC-1A—Schedule 9B.
Supplements (with annexes) Nos. 1, 1A, 1B.
Form APC-1A—concerning cash in the aggregate amount of $975,244.70.
Form APC-1A—Schedule 9B.
Form APC-1A—concerning cash representing dividends paid by General Aniline & Film Corp. on Sept. 28, 1940, Dec. 12, 1940, Oct. 10, 1941 upon 650,000 shares of the B stock of General Aniline & Film Corp. registered in the name of L. D. Pickering & Co. and belonging to the claimant.
Form APC-1A—Schedule 9B.

(40 Stat. 411, 50 U.S.C. App. 1; 55 Stat. 839, 50 U.S.C. App. Sup. 616; E.O. 9142, April 23, 1942, 7 F.R. 2985, 3 CFR, Cum. Supp.; E.O. 9193, July 6, 1942, 7 F.R. 5205, 3 CFR, Cum. Supp.)

Executed at Washington, D.C., this 14th. day of October, 1946.

(Signed) James E. Markham,
JAMES E. MARKHAM,
Alien Property Custodian.

[11 Federal Register 12782, October 30, 1946, 8 Code of Federal Regulations (1952 ed.) Sec. 505.13]

Exhibit 8

BANKERS TRUST COMPANY

New York
16 Wall Street
Fifth Avenue at 44th Street
57th Street at Madison Avenue
Comptroller's Department
F. W. Boehm
Assistant Comptroller

London
26, Old Broad Street, E C 2
Cable Address New York, Banktrust
Cable Address London, Bantruscom

16 WALL STREET, NEW YORK, *February 18, 1942.*

Honorable HENRY MORGENTHAU, JR.,
Secretary of the Treasury,
Treasury Department, Washington, D.C.

DEAR SIR: Supplementing our letter of February 16 and with further reference to notice and demand of the same date signed by you in connection with certain shares of General Aniline and Film Corporation stock, we find that the only shares listed in the order, which are held by us are as follows:

> Certificate No. 4—American I.G. Chemical Company (now known as General Aniline and Film Corporation) for 500,000 shares Class B stock registered in the name of the Eidgenössische Bank, A.G., Zürich, Switzerland, unendorsed.

This certificate was received by us on October 14, 1941 from the law firm Briesen and Schrenk, 49 Wall Street, New York, N.Y., to be held in a blocked safekeeping account in the name of H. Sturzenegger & Cie, Bâle, Switzerland.

We await receipt of your further advices and in the meantime, remain,
Yours very truly,

F. W. BOEHM,
Assistant Comptroller.

Form APC-1A—concerning cash representing dividends paid by General Aniline & Film Corp. during the years 1940 and 1941 upon 600,000 shares of the B stock of General Aniline registered in the name of Chemo Maatschappij voor Chemische Ondernemingen, and upon 300,000 shares registered in the name of N.V. Maatschappij voor Industrie en Handelsbelangen, all belonging to claimant.

Form APC-1A—Schedule 9B.

Form APC-1A—concerning cash representing dividend paid by General Aniline on Dec. 15, 1941 upon 650,000 shares of the B stock of General Aniline registered in the name of L. D. Pickering & Co. and belonging to the claimant.

Form APC-1A—Schedule 9B.

Form APC-1A—concerning cash representing dividends paid by General Aniline on Oct. 10, 1941 and Dec. 15, 1941 upon 500,000 shares of B stock of General Aniline registered in the name of Banque Fédérale S.A. and belonging to the claimant.

Form APC-1A—Schedule 9B.

LEGATION OF SWITZERLAND, *May 4, 1948.*

Exhibit 20

The Secretary of State presents his compliments to the Chargé d'Affaires ad interim of Switzerland, and refers to the Minister's note of May 4, 1948, with enclosures, concerning the return of assets in the United States claimed by I. G. Chemie. In the Minister's note attention is called to a decision of the Swiss Authority of Review "declaring Interhandel [I.G. Chemie] a Swiss concern."

The Department of State has now consulted with the Department of Justice and the Treasury Department, and desires to communicate the following as the final and considered view of this Government on the matter.

As representatives of the Swiss Government have heretofore been informed, this Government considers the decision of the Swiss Authority of Review as having no effect on the question of the assets in the United States vested by this Government and claimed by I.G. Chemie.

The decision of the Swiss Authority of Review was made on an appeal of I.G. Chemie from a provisional blocking ordered by the Swiss Compensation Office pursuant to the Swiss Federal Council Decree of February 16, 1945, and not on an appeal taken under the terms of the Washington Accord of May 25, 1946. The question of whether the assets in Switzerland held by I.G. Chemie are German assets is still before the Joint Commission. Plainly the decision of the Swiss Authority of Review, when made as a result of an appeal under a Swiss decree rather than as a result of an appeal by the Joint Commission or by an interested party under the Accord, is not binding upon the United States, even as to the status of I.G. Chemie assets in Switzerland.

In any event, the Washington Accord governs only property in Switzerland owned or controlled by Germans in Germany, the proceeds of which are to be used as specified in the Accord. Assets subject to vesting in the United States, whether or not they have been vested, are clearly without the scope of the Accord. The decision on I.G. Chemie's

claim to assets in the United States is solely one for the Attorney General under Section 32 of the Trading with the Enemy Act, as amended (Public Law No. 322, 79th Congress, 2nd Session, 50 U.S.C. App. Sec. 32), or for the United States courts if suit should be instituted under Section 9 (a) of the Trading with the Enemy Act.

The views of this Government were clearly stated in the negotiations leading to the Accord of May 25, 1946. Thus in the memorandum of June 18, 1947, replying to the Aide-Memoire of the Swiss Legation of June 4, 1947, raising the same point as now raised, the Department stated:

> "During the course of the negotiations leading to the Accord of May 25, 1946, the United States representatives made clear that a decision on the Interhandel [I.G. Chemie] case can have no effect on any settlement of or decision on the vesting by the Alien Property Custodian of February 1942 of the stock of the General Aniline and Film Corporation. The United States Government has not changed its views in this matter."

In its Aide-Memoire of April 21, 1948, the Department also expressed agreement with the view of the Attorney General of the United States that "German assets located outside of Switzerland are not within the scope of the Accord. ... Property vested by the United States ... [is] wholly unaffected by the Washington Accord ..." The Department further pointed out that this has been the consistent view of the Government of the United States since May 25, 1946, and that, concurrently with signing of the Accord this understanding was stated to, and understood by, Swiss officials.

This Government's consistent interpretation of Article IV of the Accord has been that it relates only to the establishment of a procedure for the unblocking of Swiss assets in the United States; and, as is true of the entire Accord, it in no way relates to assets in the United States vested or vestible under the Trading with the Enemy Act. This interpretation follows the intent of the negotiators of the Accord. It will be recalled that the implementation of this Article took the form of an agreement between the Treasury Department and the Swiss Minister of Finance for the defrosting of the frozen Swiss assets in the United States. Moreover, under this agreement the Swiss Government was precluded from certification of assets in the United States deemed by this Government to be German tainted or otherwise ineligible for certification, even though claimed by enterprises organized in Switzerland.

It is therefore clear that no clause of the Accord touches upon or affects in any manner assets or properties in the United States in which a direct German interest is asserted and the status of such assets or properties is not subject to any of the procedures of the Accord. The decision of the Swiss Authority of Review is not relevant to the vesting of the property in question and the contention that the assets claimed by I.G. Chemie in the United States should be released must therefore be rejected.

DEPARTMENT OF STATE,

Washington, July 26, 1948.

Exhibit 21

Trading With the Enemy Act, 40 Stat. 411, as amended, 50 U.S.C. App. 1, *et seq.*:

. . . . . .

SECTION 9

(a) Any person not an enemy or ally of enemy claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States, or to whom any debt may be owing from an enemy or ally of enemy whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him or by the Treasurer of the United States may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States, or of the interest therein to which the President shall determine said claimant is entitled: *Provided*, That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title, or interest which he may have in such money or other property. If the President shall not so order within sixty days after the filing of such application or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may institute a suit in equity in the United States District Court for the District of Columbia or in the district court of the United States for the district in which such claimant resides, or, if a corporation, where it has its principal place of business (to which suit the Alien Property Custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if so established the court shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or by the Treasurer of the United States or the interest therein to which the court shall determine said claimant is entitled. If suit shall be so instituted, then such money or property shall be retained in the custody of the Alien Property Custodian, or in the Treasury of the United States, as provided in this Act and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant, or by the Alien Property Custodian, or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated.

. . . . . .

Exhibit 22

Filed October 21, 1948. Harry M. Hull, Clerk.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4360-48

SOCIÉTÉ INTERNATIONALE POUR PARTICIPATIONS INDUSTRIELLES ET COMMERCIALES S.A. (ALSO KNOWN AS INTERNATIONALE INDUSTRIE- & HANDELSBETEILIGUNGEN A.G.); AND FORMERLY NAMED INTERNATIONALE GESELLSCHAFT FÜR CHEMISCHE UNTERNEHMUNGEN A.G. (I.G. CHEMIE) AND SOCIÉTÉ INTERNATIONALE POUR ENTREPRISES CHIMIQUES S.A. (I.G. CHEMIE), A CORPORATION, ADDRESS: BASLE, SWITZERLAND, PLAINTIFF

v.

TOM C. CLARK, ATTORNEY GENERAL OF THE UNITED STATES, AS SUCCESSOR TO THE ALIEN PROPERTY CUSTODIAN, ADDRESS: DEPARTMENT OF JUSTICE, AND WILLIAM A. JULIAN, TREASURER OF THE UNITED STATES, ADDRESS: TREASURY DEPARTMENT, DEFENDANTS

COMPLAINT FOR RETURN OF SEIZED PROPERTY

First Count

1. This action arises under the Fifth Amendment to the Constitution of the United States and the Trading with the Enemy Act of October 6, 1917, as amended, (U.S.C. Title 50, Appendix, Sections 1 to 38, inclusive). Both defendants are particularly sued under Section 9 (a) of said Act and are required to retain the property or money sought herein pending the outcome of this action.

2. Plaintiff is a corporation organized under the laws of the Confederation of Switzerland, has its principal office at Basle, Switzerland, and is and always has been a citizen of Switzerland. Its name has been changed from Internationale Gesellschaft für Chemische Unternehmungen A.G., (I.G. Chemie) and Société Internationale pour Entreprises Chimiques S.A. (I.G. Chemie) to Société Internationale pour Participations Industrielles et Commerciales S.A. and Internationale Industrie- & Handelsbeteiligungen A.G.; and it is now commonly sometimes called "INTERHANDEL".

3. Plaintiff is not, nor at any of the times herein specified or material hereto has been, an enemy or ally of enemy of the United States within the meaning of such terms under the said Trading with the Enemy Act, nor a national of a designated enemy country within the meaning of any law, executive or vesting order or governmental regulation.

4. On and prior to February 16, 1942, and continuously thereafter, plaintiff was and is the owner of 2,050,000 shares of the Common B stock, and 455,448 shares of the Common A stock, of General Aniline & Film Corporation, of a value in excess of One Hundred Million Dollars ($100,000,000).

5. On February 16, 1942, the Hon. Henry Morgenthau, Jr., as Secretary of the Treasury, issued a certain Vesting Order whereby he illegally seized the aforesaid shares of stock and vested the same in himself as such Secretary; that thereafter, on, to-wit, April 24, 1942, the Hon. Leo T. Crowley, then Alien Property Custodian and one of the predecessors of the defendant Clark in this action, issued his Vesting Order No. 5, whereby he illegally vested the same shares in himself as such Alien Property Custodian; that on the same date, to-wit, April 24, 1942, the said Secretary of the Treasury, at the request of the then Alien Property Custodian, delivered, transferred and assigned said shares to the said then Alien Property Custodian.

6. That effective on, to-wit, October 15, 1946, by Executive Order No. 9788, the Office of Alien Property Custodian was terminated, and all authority, rights, privileges, powers, duties and functions vested in said Office or Custodian, or transferred or delegated thereto, were vested in and transferred and delegated to the Attorney General, to be administered by him, and all property and interests vested in and transferred to the Alien Property Custodian, or seized by him, and all proceeds thereof, were transferred to the Attorney General; and that, pursuant to said Executive Order, said shares are now in the possession of one of the defendants in this action, namely, Hon Tom C. Clark, Attorney General of the United States, as the successor to the Alien Property Custodian, but they are held illegally by him.

7. That said shares of stock were seized and vested and are being held without warrant of law and in violation of the Constitution of the United States, and without the consent of the plaintiff.

8. On or about February 1, 1943, and also on or about June 2, 1948, plaintiff duly filed with the defendant Clark Notices of Claim under oath, with respect to the aforesaid shares of stock, in the form and containing the particulars required by the Alien Property Custodian or by the defendant Clark as his successor.

9. Defendant Clark is retaining the aforesaid shares of stock, owned by and belonging to the plaintiff, without warrant of law and in violation of the Constitution of the United States, and they should be returned to the plaintiff as the sole owner thereof.

10. The defendant, William A. Julian, Treasurer of the United States, is sued as a defendant in this Court by virtue of the provisions of Section 9 (a) of the said Trading with the Enemy Act, because cash dividends which have been received by the defendant Clark and his predecessor Custodians upon the shares of stock described herein are on deposit with and in the possession of the defendant Julian in an account in the United States Treasury in the name of the defendant Clark, and are wrongfully and illegally held by the said defendant Julian.

WHEREFORE, plaintiff demands:

(1) Judgment that it is entitled to the return and immediate possession of the shares of stock described in the 4th paragraph hereof.

(2) Judgment that the defendants, respectively, account for and deliver and transfer said shares of stock to the plaintiff, together with

all dividends (including stock of the plaintiff corporation) and avails thereof and all right, title and interest therein.

(3) Judgment for the costs of this action.

Second Count

1-3. Plaintiff incorporates into and makes a part of this count the averments contained in the first, second and third paragraphs of the first count of this Complaint.

4. On and prior to February 15, 1943, and continuously thereafter, plaintiff was and is the owner of 176 shares of the Common A stock of General Aniline & Film Corporation, of a value in excess of Thirty-five Thousand Dollars ($35,000.00).

5. On February 15, 1943, Hon. James E. Markham, as Alien Property Custodian, and the predecessor of the defendant Clark in this action, issued his Vesting Order No. 907, whereby he illegally seized the aforesaid shares of stock and vested the same in himself as such Custodian.

6. That effective on, to-wit, October 15, 1946, by Executive Order No. 9788, the Office of Alien Property Custodian was terminated, and all authority, rights, privileges, powers, duties and functions vested in said Office or Custodian, or transferred or delegated thereto, were vested in and transferred and delegated to the Attorney General, to be administered by him, and all property and interests vested in and transferred to the Alien Property Custodian, or seized by him, and all proceeds thereof, were transferred to the Attorney General; and that, pursuant to said Executive Order, said shares are now in the possession of one of the defendants in this action, namely, Hon. Tom C. Clark, Attorney General of the United States, as the successor to the Alien Property Custodian, but they are held illegally by him.

7. That said shares of stock were seized and vested and are being held without warrant of law and in violation of the Constitution of the United States, and without the consent of the plaintiff.

8. On or about June 2, 1948, plaintiff duly filed with the defendant Clark a Notice of Claim under oath, with respect to the aforesaid shares of stock, in the form and containing the particulars required by the Alien Property Custodian or by the defendant Clark as his successor.

9. Defendant Clark is retaining the aforesaid shares of stock, owned by and belonging to the plaintiff, without warrant of law and in violation of the Constitution of the United States, and they should be returned to the plaintiff as the sole owner thereof.

10. The defendant, Wiliam A. Julian, Treasurer of the United States, is sued as a defendant in this count by virtue of the provisions of Section 9 (a) of the said Trading with the Enemy Act, because cash dividends which have been received by the defendant Clark and his predecessor Custodians upon the shares of stock described herein are on deposit with and in the possession of the defendant Julian in an account in the United States Treasury in the name of the defendant Clark, and are wrongfully and illegally held by the said defendant Julian.

WHEREFORE, plaintiff demands:

(1) Judgment that it is entitled to the return and immediate possession of the shares of stock described in the 4th paragraph hereof.

(2) Judgment that the defendants, respectively, account for and deliver and transfer said shares of stock to the plaintiff, together with all dividends (including stock of the plaintiff corporation) and avails thereof and all right, title and interest therein.

(3) Judgment for the costs of this action.

. . . . . .

SOCIÉTÉ INTERNATIONALE POUR PARTICIPATIONS INDUSTRIELLES ET COMMERCIALES S.A. (ALSO KNOWN AS INTERNATIONALE INDUSTRIE- & HANDELSBETEILIGUNGEN A.G.); AND FORMERLY NAMED INTERNATIONALE GESELLSCHAFT FÜR CHEMISCHE UNTERNEHMUNGEN A.G. (I.G. CHEMIE), AND SOCIÉTÉ INTERNATIONALE POUR ENTREPRISES CHIMIQUES S.A. (I.G. CHEMIE).

BY JOHN J. WILSON, *Its Attorney.*

. . . . . .

DISTRICT OF COLUMBIA, *ss:*

I, WALTER GERMANN, Manager of the corporation named as plaintiff in the above entitled civil action, do solemnly swear that I have read the foregoing complaint and know the contents thereof; and that I verily believe the statements made in said complaint to be true.

[Sworn to October 21, 1948] *(Signed)* Walter Germann,
WALTER GERMANN.

Exhibit 23

Filed January 26, 1950. Harry M. Hull, Clerk.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Civil Action No. 3460-48

SOCIÉTÉ INTERNATIONALE POUR PARTICIPATIONS INDUSTRIELLES ET COMMERCIALES S. A., ETC. (I.G. CHEMIE), PLAINTIFF

v.

J. HOWARD MCGRATH, ATTORNEY GENERAL OF THE UNITED STATES, AS SUCCESSOR TO THE ALIEN PROPERTY CUSTODIAN, ET AL., DEFENDANTS

ANSWER AMENDED IN ACCORDANCE WITH ORDERS OF THE COURT

The defendants J. Howard McGrath, Attorney General, as successor to the Alien Property Custodian, and Georgia Neese Clark, Treasurer of the United States, for their answer to the complaint herein:

Deny each and every allegation contained in the counts and paragraphs of the complaint (and not merely the allegations of paragraphs which

are in their entirety expressly denied below), except those paragraphs or allegations as are hereinafter expressly, and not by implication, admitted.

With respect to the specific counts and paragraphs of the complaint, the defendants:

First Count

1. Admit that the action purports to be brought and the jurisdiction of the court is invoked under the Fifth Amendment to the Constitution of the United States and the Trading with the Enemy Act, as amended (U.S. Code, Title 50, Appendix, Section 1, et seq.), and particularly Section 9 (a) thereof.

2. Admit, on information and belief, that the plaintiff is a corporation organized under the laws of Switzerland and that its name has been changed from Internationale Gesellschaft für ChemischeUnternehmungen A.G. (I.G. Chemie), and Société Internationale pour Entreprises Chimiques S.A. (I.G. Chemie), to Société Internationale pour Participations Industrielles et Commerciales S.A. and Internationale Industrie- & Handelsbeteiligungen A. G.; and it is now commonly sometimes called "Interhandel".

3. Deny the allegations of Paragraph 3.

4. Admit, on information and belief, that 2,050,000 shares of the Common B stock, and 455, 448 shares of the Common A stock of General Aniline & Film Corporation may have a value in excess of One Hundred Million Dollars ($100,000,000.00).

5. Admit that on February 16, 1942, the Secretary of the Treasury executed and issued a Vesting Order whereby, *inter alia*, shares of General Aniline & Film Corporation of the description and number referred to in Paragraph 4, First Count, *supra*, were vested under the Trading with the Enemy Act and Executive Orders and regulations issued thereunder. Said Vesting Order is filed with and published in the Federal Register (7 F.R. 1046). A certified copy thereof is attached hereto as Exhibit A and by this reference is incorporated herein.

Admit that on April 24, 1942, the Alien Property Custodian executed and issued Vesting Order No. 5, whereby the shares of stock of General Aniline & Film Corporation covered by the aforementioned Vesting Order issued by the Secretary of the Treasury on February 16, 1942, were vested, under the Trading with the Enemy Act and Executive Orders and regulations issued thereunder. Said Vesting Order No. 5 is filed with and published in the Federal Register (7 F.R. 3148). A certified copy thereof is attached hereto as Exhibit B and by this reference is incorporated herein.

Admit that pursuant to said Vesting Order No. 5 the Secretary of the Treasury delivered, transferred and assigned to the Alien Property Custodian, *inter alia*, shares of stock of General Aniline & Film Corporation of the description and number referred to in Paragraph 4, First Count, *supra*.

6. Admit that by virtue of Executive Order No. 9788, dated October 14, 1946, and effective October 15, 1946, filed with and published in the Federal Register (11 F.R. 11981, error corrected 11 F.R. 12123), the Office of Alien Property Custodian was terminated and the Attorney General became the successor to the Alien Property Custodian.

Admit that pursuant to said Executive Order shares of stock of the General Aniline & Film Corporation of the description and number referred to in Paragraph 4, First Count, *supra*, and vested under the aforementioned Vesting Order of February 16, 1942, and under the aforementioned Vesting Order No. 5, were transferred to and are now in the possession of the defendant J. Howard McGrath, Attorney General, as successor to the Alien Property Custodian.

7. Admit that shares of stock of the description and number referred to in Paragraph 4, First Count, *supra*, and vested under the Vesting Order of February 16, 1942, and under Vesting Order No. 5, were seized, vested and are being held without the consent of the plaintiff.

8. Admit that on or about February 1, 1943, the plaintiff filed with the then Office of Alien Property Custodian a document under oath, in the form required by the Alien Property Custodian, entitled "Notice of Claim for Return of Property" with respect to 445,448 shares of the A stock and 2,050,000 shares of the B stock of the General Aniline & Film Corporation and all dividends and increment on said shares, vested under Vesting Order No. 5.

Admit that on or about June 2, 1948, the plaintiff filed with the predecessor of the defendant J. Howard McGrath, Attorney General, as successor to the Alien Property Custodian, a document under oath, in the form required by the predecessor of the defendant J. Howard McGrath, entitled "Notice of Claim for Return of Property" with respect to the aforesaid stock, dividends and increment.

9. Deny the allegations of Paragraph 9.

10. Admit that plaintiff purports to sue the defendant Georgia Neese Clark, Treasurer of the United States, under Section 9 (a) of the Trading with the Enemy Act, and that cash dividends received by the defendant J. Howard McGrath, Attorney General, as successor to the Alien Property Custodian, and his predecessors as Alien Property Custodian on the shares of stock vested by Vesting Order No. 5 are on deposit with defendant Clark in an account in the United States Treasury in the name of J. Howard McGrath, Attorney General, as successor to the Alien Property Custodian.

Second Count

1-3. The defendants repeat the allegations and denials of their answer made in Paragraphs 1 to 3, First Count, *supra*.

4. Admit, on information and belief, that 176 shares of the Common A stock of General Aniline & Film Corporation may have a value in excess of Thirty-five Thousand Dollars ($35,000.00).

5. Admit that on February 15, 1943, the Alien Property Custodian executed and issued Vesting Order No. 907, whereby, *inter alia*, 176 shares of the Common A stock of the General Aniline & Film Corporation were vested under the Trading with the Enemy Act and Executive Orders and regulations issued thereunder. Said Vesting Order is filed with and published in the Federal Register (8 F.R. 2453). A certified copy thereof is attached hereto as Exhibit C and by this reference is incorporated herein.

6. Admit that by virtue of Executive Order No. 9788, dated October 14, 1946, and effective October 15, 1946, filed with and published in

the Federal Register (11 F.R. 11981, error corrected 11 F.R. 12123), the Office of Alien Property Custodian was terminated and the Attorney General became the successor to the Alien Property Custodian.

Admit that pursuant to said Executive Order shares of stock of the description and number referred to in Paragraph 4, Second Count, *supra*, and vested under Vesting Order No. 907, were transferred to the predecessor of and are now in the possession of the defendant J. Howard McGrath, Attorney General, as successor to the Alien Property Custodian.

7. Admit that the shares of stock of the description and number referred to in Paragraph 4, Second Count, *supra*, and vested under Vesting Order No. 907, were seized, vested and are being held without the consent of the plaintiff.

8. Admit that on or about June 2, 1948, the plaintiff filed with the predecessor of the defendant J. Howard McGrath, Attorney General, as successor to the Alien Property Custodian, a document under oath, in the form required by the predecessor of the defendant J. Howard McGrath, entitled "Notice of Claim for Return of Property" with respect to 176 shares of the A stock of the General Aniline & Film Corporation and all dividends and increment on said shares, vested under Vesting Order No. 907.

9. Deny the allegations of Paragraph 9.

10. Admit that plaintiff purports to sue the defendant Georgia Neese Clark, Treasurer of the United States, under Section 9 (a) of the Trading With the Enemy Act, and that cash dividends received by the defendant J. Howard McGrath, Attorney General as successor to the Alien Property Custodian, and his predecessors as Alien Property Custodian on the shares of stock vested by Vesting Order No. 907 are on deposit with defendant Clark in an account in the United States Treasury in the name of the defendant J. Howard McGrath, Attorney General, as successor to the Alien Property Custodian.

. . . . . .

FIRST SEPARATE DEFENSE

1. Upon information and belief, the defendants allege that between about 1928, the exact date being unknown to the defendants, and the surrender of Germany in 1945, and thereafter to a time unknown to the defendants, the plaintiff engaged in and participated in a conspiracy or common plan, which had been in existence since about 1920, with I.G. Farben, Ed. Greutert et Cie., Basle, Switzerland (and its successor firm, H. Sturzenegger et Cie.), and others unknown to the defendants. Among the co-conspirators were the subsidiary, predecessor and controlled companies of the plaintiff, of I.G. Farben, of H. Sturzenegger et Cie., and the officers, directors, stockholders, agents, and representatives of the co-conspirators. The ultimate purpose and objective of said conspiracy or common plan was to conceal, camouflage and cloak the ownership, control, and domination by I.G. Farben of properties and interests in many countries of the world, including the United States, other than Germany. Among the various purposes and objectives of the said conspiracy were to assist I.G. Farben:

(a) To escape, avoid, or evade the tax laws of the German government;

(b) To escape, avoid or evade the tax laws, the laws aimed at foreign-owned property and other laws of the countries in which said properties and interests were located;

(c) To create and maintain reserves of properties and interests which could be realized in non-German, sound currencies;

(d) To avoid the effect of anti-German and anti-foreign sentiments, including boycotts of German and foreign-made goods, in the countries in which said properties and interests were located;

(e) To conceal, camouflage and cloak the ownership, control and domination by I.G. Farben of properties and interests located in countries, including the United States, other than Germany, in order to avoid seizure and confiscation in the event of war between such countries and Germany.

In the purposes and objectives stated under (d) and (e) above, the named conspirators conspired with the government of the German Reich.

2. To effectuate the said conspiracy or common plan, the named conspirators and others, deceased and unknown to the defendants, used divers plans, means, methods, acts and devices, including but not limited to, the following:

(a) Caused the plaintiff to be organized in the year 1928;

(b) Caused blocks of stock in the plaintiff to be issued to, transferred among, and held by corporations, partnerships, consortia and individuals owned, controlled or dominated by I.G. Farben;

(c) Caused General Aniline & Film Corporation (originally known as American I.G. Chemical Corporation) to be organized in the year 1929;

(d) Thereafter caused blocks of the stock of the General Aniline & Film Corporation to be issued to, transferred among, and held by corporations, partnerships, consortia and individuals owned, controlled or dominated by I.G. Farben;

(e) Caused corporations to be organized and stock to be issued to, transferred among, and held by the co-conspirators and others; caused the management, control and operation of corporations and partnerships to be entrusted to agents, representatives and associates of I.G. Farben and others responsible and loyal to I.G. Farben; caused, for these purposes, agreements to be made by and between the co-conspirators; caused loans and options to be given and taken with respect to the purchase and sale of stock, stock certificates to be secreted, applications to be made and favorably acted upon by the government of the German Reich; at various times unknown to the defendants and in details unknown to the defendants;

(f) Caused to be executed agreements and contracts affecting subsidiary, associate and independent corporations, parnerships, associations and individuals, with respect to sales, patents, patent licenses, technical experience, know-how and other matters for the purpose of retaining, holding and exercising control and domination by I.G. Farben of such subsidiary, associate and independent corporations, partnerships, associations and individuals, at various times unknown to the defendants and in details unknown to the defendants;

(g) Held meetings and discussions in Germany, Switzerland, the United States and other places unknown to the defendants, at various times unknown to the defendants and in details unknown to the defendants.

3. By reason of the foregoing, the plaintiff and the property claimed by the plaintiff are enemy and enemy tainted, and, therefore, the plaintiff has no standing to institute or maintain this action.

FIRST COUNTERCLAIM

1. This counterclaim arises under 26 U.S.C., Secs. 3740 and 3744 and Secs. 24 (1) and 25 (5) and 24 (20) of the Judicial Code (28 U.S.C., Secs. 41 (1), 41 (5) and 41 (20)).

2. This counterclaim is prosecuted under the authority of the Attorney General at the request of the Commissioner of Internal Revenue.

3. On or about November 8, 1929, the plaintiff herein and the Standard Oil Company of New Jersey, a corporation organized under the laws of the State of Delaware, by their agents and representatives executed a contract and on November 22, 1929, the aforesaid parties performed and discharged aforesaid contract in the City of New York, New York, at which time and place in full discharge and performance of the aforesaid contract the plaintiff delivered to the Standard Oil Company of New Jersey three copies of a so-called Four Party Agreement and one thousand shares (1,000) of stock comprising the entire authorized shares of capital stock of the Atlantic Binger Company, a corporation organized under the laws of the State of Delaware, and, in exchange and consideration for the aforesaid performance on the part of the plaintiff, Standard Oil Company of New Jersey then and there transferred and delivered to plaintiff one thousand (1,000) shares of stock comprising the entire amount of the authorized capital stock of Old Shares Investment Company, a corporation organized under the laws of the State of Delaware.

4. The cost to the plaintiff of the aforesaid three copies of the so-called Four Party Agreement was nil and the cost to the plaintiff of the aforesaid one thousand (1,000) shares of stock of Atlantic Binger Company was $2,385,714.28 and on aforesaid day the fair market value of aforesaid Old Shares Investment Co. stock was $35,059,366.31. On this exchange on November 22, 1929, the plaintiff realized a net profit or gain of not less than $32,673,652.03. Thereafter for the calendar years 1930, 1931, 1932, and 1933 the plaintiff earned and received as dividends on the Old Shares Investment Company stock not less than $1,446,324.25, as follows:

1930	$792,022.00
1931	492,022.00
1932	118,022.00
1933	44,258.25
	$1,446,324.25

5. With respect to each of the years aforesaid, 1929, 1930, 1931, 1932 and 1933, plaintiff neglected to file a return of its income from sources within the United States and no such return for any year was filed by plaintiff or by any one on its behalf, at Baltimore, Maryland, or at any

other place, so that neither the gain from the 1929 exchange hereinabove referred to, nor any of the dividends received in the subsequent years, has ever been taxed. The failure to file return for each year was willful and with the purpose and intent of evading the income tax on the income of plaintiff from sources within the United States and with intent to defraud the United States of its tax with respect to that income.

6. At all times from November 22, 1929, to and including the present time, plaintiff through and by its agents and representatives has willfully and fraudulently concealed and secreted the aforesaid gain or profit and income from the Bureau of Internal Revenue and willfully and intentionally misrepresented to agents of the Bureau of Internal Revenue material facts in connection with the aforesaid gain or profit, and income.

7. On or about September 21, 1948, the Commissioner of Internal Revenue, pursuant to and in compliance with the rules and regulations of the Bureau of Internal Revenue, notified the Office of Alien Property of a pending tentative tax liability in the amount of $11,112,000.00 against the plaintiff herein for the years 1929 to 1933 inclusive and directed that the Commissioner of Internal Revenue should be advised of any proposed release of property which would reduce the value of the property held in the account of plaintiff to an amount less than $11,112,000.00.

8. On or about October 27, 1948, pursuant to the Rules and Regulations of the Bureau of Internal Revenue, the Office of Alien Property, Department of Justice, notified the Commissioner of Internal Revenue that the plaintiff herein had instituted an action seeking a return of its alleged property held by defendants herein by virtue of aforesaid Vesting Orders Nos. 5, 907, 6718, 6767, 6768, 6769 and 7874.

9. On or about November 12, 1948, the Commissioner of Internal Revenue notified the Alien Property Custodian that on information and facts he had determined that for the calendar years 1929, 1930, 1931, 1932 and 1933 the plaintiff had net income of not less than $34,119,976.28 and that an adjustment of the plaintiff's income tax liability for each year appeared warranted and that such adjustment of the deficiencies with penalties was in the aggregate amount of $6,602,248.56.

10. Thereafter, on an assessment list dated January 28, 1949, the Commissioner of Internal Revenue assessed against the plaintiff taxes, interest, and penalties as follows:

Year	Income Tax	25% Penalty	50% Penalty	Interest	Total
1929	£3,594,101.72	$898,525.43	$1,797,050.86	$2,775,730.45	$9,065,408.46
1930	95,042.64	23,760.66	47,521.32	67,699.00	234,023.62
1931	59,042.64	14,760.66	29,521.32	38,513.59	141,838.21
1932	16,228.03	4,057.01	8,144.02	9,611.88	38,010.94
1933	6,085.51	1,521.38	3,024.76	3,239.32	13,888.97
	Excess Profits Tax				
1933	2,212.91	553.23	1,106.46	1,177.93	5,050.53
					$9,498,220.73

The assessment list showing these assessments was certified to the Collector of Internal Revenue at Baltimore, Maryland, on, to-wit, January 28, 1949, and received in his office on that day or the next, and immediately upon such receipt in his office the Collector of Internal Revenue gave notice to the taxpayer (plaintiff) and made demand for payment, but no part of the tax so assessed, listed, and demanded has ever been paid. If the plaintiff has a property right with respect to any property sued for in this action the United States of America has and claims a lien thereon as property belonging to a delinquent taxpayer as provided by Section 3670 et seq. of the Internal Revenue Code. On or about February 3, 1949, the Commissioner of Internal Revenue notified Tom C. Clark, Attorney General, as successor to the Alien Property Custodian, of the assessment of these taxes, penalties, and interest in the aggregate of $9,498,220.73; but the tax so assessed or any part thereof has not been paid.

WHEREFORE:

1. the defendants demand judgment dismissing the complaint herein, together with the costs and disbursements in the action,

2. the defendant J. Howard McGrath, Attorney General, demands judgment on the First Counterclaim for and on behalf of the United States, in the amount of $9,498,220.73, with interest.

Dated: Washington, D.C., March 4, 1949.

Exhibit 24

UNITED STATES DECLARATION UNDER ARTICLE 36, PARAGRAPH 2, OF THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

English official text, 1 United Nations Treaty Series, p. 9. Signed at Washington, 14 August 1946. Received by the Secretariat of the United Nations on 26 August 1946.

I, HARRY S. TRUMAN, President of the United States of America, declare on behalf of the United States of America, under Article 36, paragraph 2, of the Statute of the International Court of Justice, and in accordance with the Resolution of August 2, 1946, of the Senate of the United States of America (two-thirds of the Senators present concurring therein), that the United States of America recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning

(a) the interpretation of a treaty;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to

(a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

(b) disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America as determined by the United States of America; or

(c) disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States of America specially agrees to jurisdiction; and

Provided further, that this declaration shall remain in force for a period of five years and thereafter until the expiration of six months after notice may be given to terminate this declaration.

Exhibit 25

DECLARATION OF THE GOVERNMENT OF SWITZERLAND UNDER ARTICLE 36, PARAGRAPH 2, OF THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

Translated from the French official text by the Secretariat of the United Nations. Signed at Berne, 6 July 1948. Received by the Secretariat of the United Nations on 28 July 1948.

THE SWISS FEDERAL COUNCIL, duly authorized for that purpose by a Federal Order which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and put into effect on 17 June 1948, *hereby declares* that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration which is made under Article 36 of the Statute of the International Court of Justice shall take effect from the date on which the Swiss Confederation becomes a party to that Statute and shall have effect as long as it has not been abrogated subject to one year's notice.

Exhibit 26

Trading With the Enemy Act, 40 Stat. 411, as amended, 50 U.S.C. App. 1, *et seq.*:

. . . . . .

SECTION 5

. . . . . .

(b) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and

regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transaction in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

. . . . . .

Exhibit 27

. . . . . .

SECTION 12

All moneys (including checks and drafts payable on demand) paid to or received by the alien property custodian pursuant to this Act shall be deposited forthwith in the Treasury of the United States and may be invested and reinvested by the Secretary of the Treasury in United States bonds or United States certificates of indebtedness, under such rules and regulations as the President shall prescribe for such deposit, investment, and sale of securities; and as soon after the end of the war as the

President shall deem practicable, such securities shall be sold and the proceeds deposited in the Treasury.

All other property of an enemy, or ally of enemy, conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder shall be safely held and administered by him except as hereinafter provided; and the President is authorized to designate as a depositary, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depositary or depositaries, located and doing business in the United States. The alien property custodian may deposit with such designated depositary or depositaries, or with the Secretary of the Treasury, any stocks, bonds, notes, time drafts, time bills of exchange, or other securities, or property (exept money or checks or drafts payable on demand which are required to be deposited with the Secretary of the Treasury) and such depositary or depositaries shall be authorized and empowered to collect any dividends or interest or income that may become due and any maturing obligations held for the account of such custodian. Any moneys collected on said account shall be paid and deposited forthwith by said depositary or by the alien property custodian into the Treasury of the United States as hereinbefore provided.

The President shall require all such designated depositaries to execute and file bonds sufficient in his judgment to protect property on deposit, such bonds to be conditioned as he may direct.

The alien property custodian shall be vested with all of the powers of a common-law trustee in respect of all property, other than money, which has been or shall be, or which has been or shall be required to be, conveyed, transferred, assigned, delivered, or paid over to him in pursuance of the provisions of this Act, and, in addition thereto, acting under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe, shall have power to manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights or powers which may be or become appurtenant thereto or to the ownership thereof in like manner as though he were the absolute owner thereof: *Provided*, That any property sold under this Act, except when sold to the United States, shall be sold only to American citizens, at public sale to the highest bidder, after public advertisement of time and place of sale which shall be where the property or a major portion thereof is situated, unless the President stating the reasons therefor, in the public interest shall otherwise determine: *Provided further*, That when sold at public sale, the alien property custodian upon the order of the President stating the reasons therefor, shall have the right to reject all bids and resell such property at public sale or otherwise as the President may direct. Any person purchasing property from the alien property custodian for an undisclosed principal, or for resale to a person not a citizen of the United States, or for the benefit of a person not a citizen of the United States, or for the benefit of a person not a citizen of the United States, shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not more than $10,000, or imprisonment for not more than ten years, or both, and the property shall be forfeited to the United States. It shall be the duty of every corporation incorporated within the United States and every unincorporated association, or company, or trustee, or trustees within the United States issuing shares or certificates

representing beneficial interests to transfer such shares or certificates upon its, his, or their books into the name of the alien property custodian upon demand, accompanied by the presentation of the certificates which represent such shares or beneficial interests. The alien property custodian shall forthwith deposit in the Treasury of the United States, as hereinbefore provided, the proceeds of any such property or rights so sold by him.

Any money or property required or authorized by the provisions of this Act to be paid, conveyed, transferred, assigned, or delivered to the alien property custodian shall, if said custodian shall so direct by written order, be paid, conveyed, transferred, assigned, or delivered to the Treasurer of the United States with the same effect as if to the alien property custodian.

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the alien property custodian or deposited in the United States Treasury, shall be settled as Congress shall direct: *Provided however*, that on order of the President as set forth in section nine hereof, or of the court, as set forth in sections nine and ten hereof, the alien property custodian or the Treasurer of the United States, as the case may be, shall forthwith convey, transfer, assign, and pay to the person to whom the President shall so order, or in whose behalf the court shall enter final judgment or decree, any property of an enemy or ally of enemy held by said custodian or by said Treasurer, so far as may be necessary to comply with said order of the President or said final judgment or decree of the court: *And provided further*, that the Treasurer of the United States, on order of the alien property custodian shall, as provided in section ten hereof, repay to the licensee any funds deposited by said licensee.

. . . . . .

Exhibit 28

[For the Press]

DEPARTMENT OF STATE,

May 21, 1946.

No. 347

CONFIDENTAL RELEASE FOR PUBLICATION AT 8:00 P.M., E.S.T., TUESDAY, MAY 21, 1946. NOT TO BE PREVIOUSLY PUBLISHED, QUOTED FROM OR USED IN ANY WAY.

ALLIED-SWISS NEGOTIATIONS

The Delegations of France, Great Britain, and United States have arrived at agreement with the Swiss Delegation on two fundamental questions with which they have been concerned during the past several weeks. The decisions relate to the division of German holdings in Switzerland and to gold received by Switzerland from Germany.

Agreement is in general terms, and some details remain to be worked out in Washington on a technical level.

The accord provides that:

(1) Holdings of Germans in Germany or Germans subject to repatriation will be identified and liquidated or transferred to persons acceptable to all concerned. This work will be done by a Swiss agency, which the Swiss Government will set up. The Swiss agency will cooperate with a Joint Commission composed of representatives of the three Allied governments and of Switzerland. Doubtful or controversial cases will be referred to arbitration.

(2) The proceeds of liquidation will be divided equally between the Allies as trustees for the countries claiming reparations and Switzerland. On their side, the Allies will turn the funds they obtain over to the Inter-Allied Reparation Agency for the rehabilitation of countries devastated or depleted by Germany. Procedure for the distribution of these funds was provided in the Paris Reparation Agreement signed in Paris in January of this year.

(3) The Allies will accept a payment of 250 million Swiss francs in consideration of which the governments signatory to the Paris Reparation Agreement will waive their claim and those of their central banks for restitution from Switzerland of monetary gold. This amount will also be divided in accordance with the Paris Reparation Agreement. The amount equals approximately $58.14 million.

The accord reached on the above questions provides the basis for concluding in the near future the negotiations which began in Washington on March 18. It provides a satisfactory method of preventing the use of German assets for the financing of a new war. It also settles amicably differences of principle between the Allies and the Swiss on the gold issue and the allocation of the proceeds of liquidation.

The negotiations are being conducted by Mr. Walter Stucki for the Swiss Government, Mr. Paul Chargueraud for the French Government, Mr. F. W. McCombe for the British Government, and Mr. Randolph Paul, Special Assistant to the President, for the United States Government.

. . . . . .

"Legation of Switzerland,
"Swiss Delegation,
"*Washington, D.C.*
"*May 25, 1946.*

"GENTLEMEN:

"In the course of the discussions which have taken place, the Allied Governments, fully recognizing Swiss sovereignty, claimed title to German property in Switzerland by reason of the capitulation of Germany and the exercise of supreme authority within Germany, and sought the return from Switzerland of gold stated to have been wrongfully taken by Germany from the occupied countries during the war and transferred to Switzerland.

"The Swiss Government stated it was unable to recognize the legal basis of these claims but that it desired to contribute its share to the pacification and reconstruction of Europe, including the sending of supplies to devastated areas.

"In these circumstances we have arrived at the Accord which follows:

"I

"1. The Swiss Compensation Office shall pursue and complete its investigations of property of every description in Switzerland owned or controlled by Germans in Germany and it shall liquidate such property. This provision shall apply equally to the property of such other persons of German nationality as are to be repatriated.

"2. The Germans affected by this measure shall be indemnified in German money for the property which has been liquidated in Switzerland pursuant to this Accord. In each such case an identical rate of exchange shall be applied.

"3. Switzerland will, out of funds available to it in Germany, furnish one-half of the German money necessary for this purpose.

"4. The Swiss Compensation Office shall exercise the functions entrusted to it in close cooperation with a Joint Commission which shall be composed of a representative of each of the three Allied Governments, and a representative of the Swiss Government. The Joint Commission, as all interested private persons, shall have a right of appeal against the decision of the Swiss Compensation Office.

"5. The Swiss Government will bear the cost of the administration and liquidation of German property.

"II

"1. Of the proceeds of the liquidation of property in Switzerland of Germans in Germany, 50 percent shall accrue to the Swiss Government and 50 percent shall be placed at the disposal of the Allies for the rehabilitation of countries devastated or depleted by the war, including the sending of supplies to famine stricken people.

"2. The Government of Switzerland undertakes to place at the disposal of the three Allied Governments the amount of 250,000,000 Swiss francs, payable on demand in gold in New York. The Allied Governments declare on their part that, in accepting this amount, they waive in their name and in the name of their banks of issue all claims against the Government of Switzerland and the Swiss National Bank in connection with gold acquired during the war from Germany by Switzerland. All questions relative to such gold will thus be regulated.

"III

"The procedures relating to the application of the present Accord are set out in the Annex.

"IV

"1. The Government of the United States will unblock Swiss assets in the United States. The necessary procedure will be determined without delay.

"2. The Allies will discontinue without delay the 'Black lists' in so far as they concern Switzerland.

"V

"The undersigned representative of the Swiss Government declares on his part that he is acting also on behalf of the Principality of Liechtenstein.

"VI

"In case differences of opinion arise with regard to the application or interpretation of this Accord which cannot be settled in any other way, recourse shall be had to arbitration.

"VII

"This Accord and the Annex shall take effect upon their approval by the Swiss Parliament.

"This Accord and the Annex have been written in English and French, both texts having the same validity.

"Very truly yours,

"STUCKI

"To the Chiefs of the Allied Delegations,
"Washington, D.C."

"ANNEX

"I

"A. Property in Switzerland of Germans in Germany as defined under IV below, hereinafter termed 'German property', shall be liquidated in the following manner:

"a. Persons in Switzerland indebted to Germans in Germany shall be required to pay their debts into an account in the name of the Swiss Compensation Office with the Swiss National Bank and thus absolve themselves of liability.

"b. All natural and juridical persons in Switzerland who in any form administer German property are to be required to surrender these assets to the Compensation Office. Such action will terminate their liability. The Compensation Office will liquidate the property and pay the proceeds into the account mentioned under 'a'.

"c. The Compensation Office shall take title to all participations in Swiss enterprises or organizations belonging to Germans in Germany and shall liquidate them. The proceeds of liquidation shall be paid into the account mentioned under 'a'.

"d. The Compensation Office will similarly proceed with the liquidation of any other German property.

"e. The Joint Commission will give sympathetic consideration to cases, brought to their attention by the Compensation Office, relating to property of Swiss origin located in Switzerland and belonging to women of Swiss birth married to Germans and residing in Germany.

"B. The Compensation Office will make every effort with the assistance of the Joint Commission to uncover all transactions of a cloaking nature

whether by pawn, pledge, mortgage or otherwise, by which German property was concealed, and will ensure their annulment.

"C. The Compensation Office will notify to the Joint Commission, for transmission to the competent authorities in Germany, the amount realized by the liquidation in each case of German property with particulars of the names and addresses of the German owners of that property. The competent authorities in Germany will take the necessary measures in order that there will be recorded the title of the German owners of the property liquidated to receive the counter value thereof in German money, calculated at a uniform rate of exchange. An amount equal to one-half of the total of the indemnities accruing to the German owners will be debited to the credit existing in the name of the Swiss Government at the 'Verrechnungskasse' in Berlin. Nothing in this arrangement shall hereafter be invoked by one or the other party to this Accord as a precedent for the settlement of any Swiss claim upon Germany nor shall it be alleged that the Allied Government thereby recognized any right on the part of Switzerland to dispose of the credit above mentioned.

"II

"A. The Compensation Office will be empowered to uncover, take into possession, and liquidate German property.

"B. The Swiss Government shall carry out this Accord in collaboration with the Governments of the United States, France, and the United Kingdom. For this purpose there shall sit in Berne or Zurich a Joint Commission composed of representatives of each of the four Governments, which shall act by majority vote. The functions of the Joint Commission are enumerated below.

"C. The Compensation Office and the Joint Commission will enter upon their functions as soon as possible after the coming into force of the Accord.

"D. The Compensation Office will exercise its functions in collaboration with the Joint Commission. It will keep the Joint Commission periodically informed about its activities; it will reply to inquiries submitted by the Joint Commission relative to the common objective, i.e., the uncovering, the census, and the liquidation of German property. The Compensation Office will consult the Joint Commission before making important decisions. The Compensation Office and the Joint Commission shall place at the disposal of each other all information and documentary evidence likely to facilitate the accomplishment of their tasks.

"E. The Compensation Office shall as hitherto investigate the locus and status of items of property suspected by it or reported to it by the Joint Commission as being or believed to comprise a German property, or to be of doubtful or disputed bona fide Swiss ownership. The conclusions of the Compensation Office will be discussed with the Joint Commission.

"F. The Compensation Office will settle, in general or particular, in consultation with the Joint Commission, the terms and conditions of sales of German property, taking into reasonable account the national interests of the signatory Governments and those of the Swiss economy together with the opportunity of obtaining the best price and of favoring

freedom of trade. Only persons of non-German nationality who are in a position to present suitable guarantees will be permitted to participate in the purchase of such property, and all possible measures will be taken to prevent resales to German persons.

"III

"If the Joint Commission after consultation with the Compensation Office is unable to agree to the decision of that office, or if the party in interest so desires, the matter may within a period of one month, be submitted to a Swiss Authority of Review. This Authority shall be composed of three members and shall be presided over by a Judge. This review will be administrative in form and the procedure shall be prompt and simple. The decisions of the Compensation Office, or of the Authority of Review, should the matter be referred to it, shall be final.

"Nevertheless, if the Joint Commission is in disagreement with any decision of the Authority of Review, the three Allied Governments may, within one month, require the difference to be submitted to arbitration as follows: If the difference concerns matters covered by the Accord or the Annex or their interpretations, the difference may, if the Allied Governments desire, be submitted to an Arbitral Tribunal. This Tribunal shall be composed of one member designated by the three Allied Governments, a member designated by the Swiss Government, and a third member designated by the four Governments. Any such difference which is not of primary importance may, if the Joint Commission and the Compensation Office agree, be submitted for decision to the member of the Tribunal who has been designated by agreement of the four Governments, who in such cases will sit as the Arbitral Tribunal.

"The Arbitral Tribunal will not be restricted as regards the nature or proof of evidence produced before it and will have full jurisdiction to consider all matters of fact or law submitted to it.

"The decision of the Arbitral Tribunal shall be final.

"The expenses of the Arbitral Tribunal shall be a charge on the proceeds of the liquidation of German property, before their division.

. . . . . .

"IV

"A. The term 'property', as used in the Accord and this Annex, includes all property of every kind and description and every right or interest of whatever nature in property acquired before the first of January, 1948. For the purpose of the Accord sums paid or payable by persons in Switzerland through the German-Swiss Clearing shall not be regarded as German property.

"B. The expression 'German in Germany' means all natural persons resident in Germany and all juridical persons constituted or having a place of business or otherwise organized in Germany, other than those organizations of whatever nature the ownership or control of which is held by persons who are not of German nationality. Appropriate measures will be taken to liquidate the interests in Switzerland which German nationals resident in Germany have through such organizations and equally to safeguard substantial interests of non-German persons which would otherwise be liquidated.

"Germans who have been repatriated before the first of January 1948, or in connection with whom, before that date, a decision by the Swiss Authorities has been taken that such persons should be repatriated from Switzerland, are to be considered as falling within the expression 'Germans in Germany'.

"V

"The Swiss Government undertakes, in recognition of the special circumstances, to permit the three Allied Governments to draw immediately up to 50,000,000 Swiss francs upon the proceeds of liquidation of German property against their share thereof. These advances will be devoted to the rehabilitation and resettlement of non-repatriable victims of German action, through the Inter-Governmental Committee on Refugees.

"VI

"A. Pending the conclusion of multilateral arrangements to which it is the intention of the three Allied Governments to invite the Swiss Government to adhere, and pending the participation of the Swiss Government in such arrangements, no German-owned patent in Switzerland shall be sold or otherwise transferred without the concurrence of the Compensation Office and the Joint Commission.

"B. No German-owned trademark or copyright shall be sold or transferred without the concurrence of the Compensation Office and the Joint Commission.

"VII

The preceding provisions do not apply to property in Switzerland of the German State, including property of the Reichsbank and the German railroads.

"STUCKI

"WASHINGTON, D.C.,
"*May 25, 1946*"

. . . . . .