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FOREIGN SERVICE DESPATCH

FROM : Amembassy BERN

421
DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

January 29, 1960
DATE

REF : Department Instruction A-57, December 8, 1959

L/E

2 For Dept. Use Only	ACTION <i>L-2</i>	DEPT. <i>Rimpic 2 REP, IRC 6 ICW, IE 7 SCJ-2</i>
	REC'D <i>2-3</i>	OTHER <i>CA 10 TR 3 CAP 3</i>

SUBJECT: Heirless Assets in Switzerland

The Embassy regrets the delay in responding to the referenced instruction; the delay was caused by the prolonged absence from Bern of the officer in the Swiss Political Department primarily concerned with the issue.

On January 28, 1960, the drafting officer called on Mr. Alfred WACKER of the Legal Office of the Federal Political Department to discuss the question of heirless assets in Switzerland. While Mr. Wacker is not the action officer, he is familiar with the problem. It was made clear to him that only information was being sought. The whole issue was reviewed, including the statement made by the Swiss Government in 1952 that it would give sympathetic consideration to the application of heirless assets of victims of National Socialism to the relief and rehabilitation of such victims, should such assets exist in Switzerland.

Wacker said that the Government still is giving such sympathetic consideration and is currently studying the problem from all points of view. He indicated that the Federal Council still has not made up its mind whether to present draft legislation to the parliament and that this point will be decided only when a full study has been completed. He stated that the problem is a very complicated one and that additional complications have resulted from the election of four new men to the Federal Council—men whose views on a problem such as the one at hand are not known.

Wacker, an intelligent young Swiss Foreign Service officer, outlined the following as examples of the problems faced:

- 1) The question of discovery of assets. He pointed out that the almost sacrosanct Swiss banking secrecy laws would have to be modified in order to require custodians or trustees to report the existence of known or suspected heirless assets of the sort under discussion. Some banking circles are not well disposed to the modification of the present laws, as what they consider an unhealthy precedent may be established.
- 2) The administration of any discovered assets. Wacker said that the Government is opposed to the establishment of any new bureaucracy to administer heirless assets. In true Swiss fashion, they are also concerned with any possible administrative expense.
- 3) The need for and methods of coordination with foreign authorities. Under this heading, Wacker included points such as the confirmation of the death of an

WPBlumberg:jms
REPORTER

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From Bern

individual, the reasonable assurance that no heirs to the property exist and the problems involved in assets physically located elsewhere but under the control of a Swiss custodian. He said that he was aware of cases where property had been disposed of as heirless and that then heirs were found. The Swiss were deeply interested in avoiding any possible legal action arising out of the improper disposal of purportedly heirless property. He implied that the Swiss were also generally concerned with retaining the reputation they have for strict and confidential administration of property left in their care.

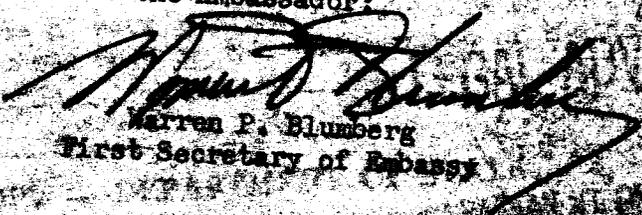
In response to a question, Wacker said that the Federal Council's decision to present to the Parliament a program of disposing of heirless assets would rest in large part upon determinations that (a) the program was in accord with the Constitution, (b) it was administratively feasible, and (c) it was agreeable to the banks and other interested parties. He also pointed out that the reaction of the Parliament could not be predicted.

When the interest of the United States was explained, Wacker said that he thought a final decision would be made sometime within the next six to nine months. He indicated that, as a personal view, he thought that any direct intervention by the United States would be counterproductive. Wacker tied this issue in with the general problem of Swiss sensitivities concerning the disposition of enemy assets in Switzerland, the Washington Accord and the Interhandel case. He said that should Interhandel be satisfactorily disposed of, the Swiss would be more sympathetically inclined to an American approach. At this point, the drafting officer repeated that he was not making a démarche but was simply seeking information about the current status of the question. Wacker replied that he understood this but was merely suggesting that we refrain from officially raising the matter at this time.

Embassy Recommendation:

The Embassy agrees with the Department that a tripartite approach to the Swiss is premature. It is suggested that the matter be allowed to take its natural course and that the Embassy be instructed to seek further information on the issue during the month of May. At that time the question of a formal approach might be reviewed.

For the Ambassador:


Warren P. Blumberg
First Secretary of Embassy

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