No. 3313

UNITED STATES OF AMERICA
and
NORWAY

Memorandum of Understanding (with annex) on conflicting claims to enemy property. Signed at Washington, on 21 June 1952

Official text: English.

Registered by the United States of America on 26 April 1956.

ÉTATS-UNIS D'AMÉRIQUE
et
NORVÈGE

Mémorandum d'accord (avec annexe) relatif aux cas de conflit entre plusieurs droits revendiqués sur des biens ennemis. Signé à Washington, le 21 juin 1952

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 26 avril 1956.

No. 3313. MEMORANDUM OF UNDERSTANDING[1] BETWEEN THE UNITED STATES OF AMERICA AND NORWAY ON CONFLICTING CLAIMS TO ENEMY PROPERTY. SIGNED AT WASHINGTON, ON 21 JUNE 1952

Discussions have been held by representatives of the Governments of Norway and the United States of America concerning the settlement of conflicting claims to enemy property in order to protect and make available non-enemy interest in such property and to dispose of the enemy interests in such property to the mutual advantage of both Governments.

As a result of these discussions, the representatives of each Government have agreed to recommend final adoption of this Memorandum of Understanding by their respective Governments. It is expressly understood that the proposals herein shall not be binding until the receipt by each Government of a notification from the other Government of its approval of these proposals.

Article I

A. The Attorney General of the United States will release to the Norwegian Enemy Property Custodian all securities of Norwegian issue vested in or transferred to the Attorney General as enemy property, together with any certificate evidencing any such security. In the event that a security subject to release has been liquidated, the net proceeds of liquidation shall be released in lieu thereof.

B. The Attorney General will release to the Norwegian Custodian any income paid on such security after the date it was vested in or transferred to the Attorney General. In addition, the Attorney General will release the income collected prior to vesting on those securities of Norwegian issue vested by Vesting Order No. 13970, which income was also vested by such Vesting Order.

C. No release need be made before the expiration of two years from the effective date of the relevant vesting order. In the event that, prior to release of any such security, or income thereon, or proceeds thereof, any administrative

[1] Came into force on 27 April 1954 by the receipt by each contracting State of a notification from the other Contracting State of its approval of the Agreement.

or judicial proceedings under Sections 9 or 32 of the United States Trading with the Enemy Act[1] are commenced against the Attorney General for the return of any such security, income or proceeds, he may withhold release pending such proceedings. If the claimant does not establish a right to return in such proceedings, the Attorney General will thereupon release the property to the Norwegian Custodian. If the claimant does establish a right to return of the property, the Attorney General shall not be obligated to release the property to the Norwegian Custodian; and, in such event, the Norwegian Custodian will give sympathetic consideration to the release of any interest acquired by him in Norway in such security, upon certification by the United States Department of State that the claim is a meritorious one on the basis of the claimant's status as a persecutee, or as a non-resident of Germany during the war who did not espouse the enemy cause.

D. It is understood that the Attorney General is not obligated to release any security which the Norwegian Custodian will not treat as enemy property. The Norwegian Custodian will restore any security released to him which he does not treat as enemy property.

E. The Attorney General will release to the Norwegian Custodian the securities of Norwegian issue vested by Vesting Order No. 17128 or any proceeds therefrom to the extent that he is not required to make other disposition of such property under the terms of a prior international agreement which may apply to such securities.

F. The Norwegian Custodian will release to the Attorney General, on conditions similar to those in this Article applicable to releases by the Attorney General, any securities of United States issue acquired by the Norwegian Custodian as enemy property.

Article II

The Attorney General holds certain income from 300 shares of capital stock of Bethlehem Steel Corporation, which are vested by Vesting Order No. 17778, and the proceeds of sale of those shares. The Norwegian Custodian claims this property on the basis of the issuance of a bearer instrument in Norway by the registered owner of this property. He represents that he has seized the rights under this instrument as part of the assets of an enemy person, the enemy interest resulting from a transfer of this bearer instrument during the enemy occupation of Norway, and that judicial proceedings are pending in Norway respecting the Norwegian seizure. The Attorney General will release this property to the Norwegian Custodian if the enemy status of the person

[1] United States of America : 40 Stat. 419; 60 Stat. 50; 50 U.S.C. app. §§ 9, 32.

concerned is confirmed by the Norwegian courts, and if the Norwegian Custodian establishes that his seizure covers all rights in the bearer instrument.

Article III

The Attorney General will release to the Norwegian Custodian 50% of the sums obtained by the vesting of cover accounts maintained in United States banks by Norwegian banks for the account of German enemies.

Article IV

A. The Attorney General has vested $742,414.87 held in the name of Internasjonalt Kvelstoffaksjeselskap, Oslo, Norway (IKA), to which the Norwegian Government has asserted rights on its own behalf arising from enemy interests in and claims against the Norwegian company and its assets, and on behalf of non-enemy interests in and claims against that company and its assets.

B. The Attorney General will release to the Norwegian Custodian the sum of $300,000 as the share of the assets in the United States allocable to all such non-enemy interests and claims.

C. The Attorney General shall retain the remainder of these assets as enemy property, and the Norwegian Custodian waives all claim thereto.

D. The Norwegian Custodian will obtain from any Norwegian national who has or may assert any direct or indirect interest in or claim to the assets retained by the Attorney General, an unconditional waiver of any such interest or claim, which he will forward to the Attorney General. In addition, to the extent of the $300,000 released to him, the Norwegian Custodian will reimburse the Attorney General for any amounts which must be paid out by him pursuant to any final judgment in any judicial or administrative proceedings brought by a claimant asserting that he is a creditor of IKA or asserting under Section 9 or Section 32 of the Trading with the Enemy Act any direct or indirect interest in or claim to the assets retained by the Attorney General. In any administrative proceedings under the Trading with the Enemy Act the Norwegian Custodian and IKA may present evidence and arguments with respect to the claim. If by change in existing United States law German nationals generally become entitled to a return of vested property, the obligations and waivers of the Norwegian Custodian and of IKA set forth in this Article shall not apply with respect to claims based on the ownership by the claimant of all or any part of the assets