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NO. 1273

AMERICAN CONSULATE GENERAL,  
Berlin, Germany, May 2, 1933.

*Xtra copy  
no memo  
attached*

STRICTLY CONFIDENTIAL.

SUBJECT: With further reference to the interference  
with the treaty rights of American firms  
in Germany.

THE HONORABLE

THE SECRETARY OF STATE,

WASHINGTON.

SIR:

I have the honor to refer to my strictly confidential despatches Nos. 1233 of April 11, 1933 and 1243 of April 18, 1933, with reference to the interference with the treaty rights of American firms in Germany. As brought out in these despatches certain firms in Germany organized under the German law in the same way as German companies but whose capital is entirely owned in the United States, have been asked to sign declarations by various municipalities and public owned utilities before being able to sell them any further products, which declarations are of such a nature that these American owned German firms cannot sign them. The nature of the declaration has been set forth in the above mentioned despatches. As some of the American firms concerned, such as the

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Nationale Radiator Gesellschaft and the National Cash Register Company have factories in Germany in which most of the products which they sell in Germany are manufactured, their exclusion from selling to the Government Departments of the Reich, to the states, municipalities, communes and public owned utilities would be equivalent to a violation of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany, which guarantees to American owned German firms the same rights as those enjoyed by German firms entirely owned in Germany.

The Department has been informed in the above mentioned despatches that in the conversations with the Ministry of Commerce it was necessary to make a distinction between American firms in Germany organized under German law which import what they sell from the United States, and between those American firms incorporated under German law which manufacture in Germany. The exclusion of typewriters, adding machines and other material <sup>imported from the U.S.</sup> from competition with states, municipalities, etc., could probably not be made a subject of representations as similar action in certain cases has been taken in the United States with respect to goods of foreign origin.

The whole subject, however, as has been set forth in the foregoing despatches, has been brought to the attention of the Ministry of Commerce of the German

Government



Government which has given expression to the official opinion that such action in the one case would be equivalent to violation of the treaty and has assured the Consulate General that any action excluding goods manufactured by American owned German firms or imported from the United States, has not come from the Reich authorities. The Ministry of Commerce gave all assurances that it would do everything in its power to correct the situation.

In spite of the assurances given, the Consulate General and the American firms affected could not get any information to the effect that the National Socialist Party from which this instruction requiring the declaration originated had taken any steps to inform the Departments of the Reich and of the states and municipalities and public utilities that the action which they contemplated was a violation of the treaty. On the other hand the German companies owned by the Associated Press and the New York Times engaged in the taking of pictures, were subjected to further difficulties than those already set forth in the despatches above mentioned and it was necessary for the Consulate General in at least one further instance to intervene directly in order that these companies might be able to have their photographers present at important public events from which notice had been given that they would be excluded.

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In addition to the conversations which I had had with Staatssecretaer Bang and Ministerial Director Dr. Posse set forth in the despatches Nos. 1233 and 1243, I had had the opportunity to discuss this matter with Dr. Bang later at a luncheon given by Dr. Schacht in the Reichsbank, and Dr. Bang assured me that everything was being done; but he could give no definite assurances as to what actual action was being taken. As the patience of these firms was becoming exhausted and as it was obvious that the longer this situation was allowed to continue the worse it would become and the more difficult it would be for the Government to correct it, I felt it desirable that the matter should be brought to the attention of Minister Goering who, if he so wished, could see that the proper orders were issued by the Party.

I therefore called on Staatssecretaer Milch who is the head of the Aviation Ministry and who is one of the men really enjoying the confidence of Minister Goering and in whose opinion he really has confidence, on the afternoon of April 28. I placed the whole situation before him and Dr. Milch immediately realized the importance of it and the necessity for action by the Party. He dictated a memorandum to Minister Goering in my presence, in which he stated in very direct and plain language to the Minister that he felt sure he would wish to take the necessary

measures



measures at once to have the Party organization informed that interference with American firms must be stopped. Dr. Milch assured me that Minister Goering realized that the treaty obligations of Germany in every respect must be kept and that he wished them kept and would see that they were respected. He thanked me for the way in which this had been handled and expressed real appreciation of it and stated that enough mistakes had been made in connection with the Jewish question so that the Government and the leaders of the Party were anxious to avoid further mistakes. He assured me that the necessary steps would be taken by the Party to have this interference with American firms stopped. A memorandum covering the conversation with Dr. Milch is transmitted herewith and certain parts will probably be found of special interest.

The Consulate General is not able to state how rapidly the necessary action will be taken by the Party to stop this interference with American firms, or how far it will go; but we now have the official assurances of the German Government that certain action would be equivalent to treaty violation and that it has not come from the Government, and we have what I believe is a real declaration by a responsible member of the Party that such action would be treaty violation which they wish to avoid and that the necessary steps will be taken. The Consulate General will keep in

close

close touch with the situation and if it is not evident that the necessary action is being taken by the Party and that the interference with American firms stops, I am of the opinion that we should not exercise further patience but should inform the Department that the time has arrived for it to make representations of the strongest character through the Embassy to the German Government. I believe that the course followed up to the present has been the best one in every way to achieve the protection of our interests and I still believe that direct representations can be avoided.

That this matter has been giving concern to the German Government and to the Party is seen from the enclosed clipping from the "Deutsche Allgemeine Zeitung" of April 29, which covers an interview which the Berlin representative of the "New York Times" had with Staatssecretar Bang of the Ministry of Commerce. In this interview Dr. Bang emphasized the importance of foreign capital and foreign firms in Germany being given all proper protection. This declaration of Dr. Bang was probably stimulated by the conversations which I had had with him with respect to the interests of American firms. So far as I can learn there has been more interference with American firms than with others, but this is probably due to the fact that we have more firms engaged in manufacturing in Germany than any other foreign country.

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The action of local Party leaders in interfering not only with foreign but with German firms, has also caused the Government preoccupation. In the morning issue of the "Berliner Tageblatt" of April 25 there is an announcement by the leader of the liaison staff of the National Socialist Party, as follows:

" As from April 25, 1933 it is forbidden to all local Party organizations to place Kommissars in any kind of a concern. Should the placing of a Kommissar in any kind of an undertaking be considered as absolutely necessary, then the authorization of the liaison staff of the National Socialist Party in Berlin must first be secured. The person occupying himself in the liaison staff in Berlin with this matter is Dr. Otto Wagener. The request for the placing of a Kommissar must show clearly the need for this action and it is only after the authorization of the liaison staff in Berlin has been given that the Kommissar may be placed in the business."

This action by the Party was necessary as individual Party leaders had taken it upon themselves all over Germany to place Kommissars in any business in which they saw fit. During the first days after March 5 the Party leadership in Berlin placed Kommissars in certain very large businesses like the German General Electric, which had long been the object of its suspicion particularly because of the presence of a considerable number of Jews. The Party leaders and even individual members of the S.A. in various parts of Germany believed that this was an example to follow and on their own initiative

placed

placed Kommissars in all sorts of manufacturing and business houses without any authority from any central Party organization. These Kommissars were dictating who should be employed and who should be dismissed and were going so far as to interfere with the conduct of the business and in some cases dismissed the actual responsible heads of the business and members of the boards of directors. This was causing such disorganization in business and such serious disturbance in the businesses themselves that the Party leaders in Berlin were compelled to take action such as that set forth in the above quoted declaration.

This declaration of the leader of the liaison staff of the Party in Berlin on April 25, was supplemented on April 28 by a declaration of Dr. Otto Wagener who is the expert for business policy in the liaison staff of the Party in Berlin. A resume of the declaration follows:

" Business is no instrument against which one can make thoughtless attacks without punishment. That there have been errors in the business system of Germany up to now, we know. The mistakes of the previous system cannot be set aside through new and more arbitrary action ..  
..... Every independent placing of Kommissars of any kind is therefore forbidden. Only public authorities such as a Ministry, a State Government, or Burgomasters can place Kommissars in business. All the independently placed Kommissars up to this time must be removed."

These declarations were followed by one of Minister

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Hugenberg on April 29 which, as reported in the "Tageblatt" of April 29, morning issue, is to the effect that the heads of businesses are not to pay attention to interference coming from unauthorized persons.

There is much reason to believe that among the many matters discussed between Prime Minister Mussolini and his advisers and Minister Goering during the latter's visit to Rome, was this interference in private business of all kinds by the Party leadership and by individual Party members in Germany. This I am informed, had been brought strongly to the attention of the Italian Government by its representatives in Berlin who saw in it grave dangers not only to German business, but also to the future of the National Socialist Party. It is at least interesting in this connection that following the return of Minister Goering from Rome a decided change has been apparent in this matter. Up to that time Party leaders, groups of S.A. men, or in some cases a single S.A. man had placed Kommissars in businesses and this had been going on without direct interference from the central Party leadership and if not approved by it, was at least tolerated. If appearances can be judged since April 25, active and energetic steps are to be taken to see that no more Kommissars are placed in businesses except under the instructions of the liaison staff of the Party in Berlin, and all unauthorized Kommissars are to be removed.

removed.

The interference with American business firms in Germany has come, I believe it may be said in every single case, from German competitors who wish to use the opportunity of the accession of the Party to power to get business which they have not been able to secure in any other way. This is apparent in practically every single case which has come to the attention of the Consulate General and is particularly clear in the case of the German picture companies which are trying to exclude the American companies from this business. There is reason to believe that the highest leaders of the Party now realize that the Party cannot make the business difficulties and the competitive weakness of every firm in Germany which seeks to use the Party, its own business. There are indications, as set forth in this despatch and in the appended memorandum, that this question of interference with American firms is gradually reaching a satisfactory solution; but this cannot blind one to the fact that the spirit of Germany is now so highly nationalistic in every way that foreign firms or foreign owned German firms will have a harder road to travel in Germany than heretofore.

Respectfully yours,

George S. Messersmith,  
American Consul General.

Enclosures:

Copy of memorandum;

Clipping from "Deutscher Allgemeine Zeitung".

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the signed original.  
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