

TESTIMONY PRESENTED TO THE  
SUBCOMMITTEE ON WAR MOBILIZATION OF THE  
SENATE MILITARY AFFAIRS COMMITTEE AT  
10:30 AM ON JUNE 28, 1945 BY  
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GENERAL OF THE UNITED STATES IN CHARGE  
OF THE WAR DIVISION  
DEPARTMENT OF JUSTICE

In previous hearings this Committee has undertaken to uncover the German plan for the conduct of economic warfare in the years between the two World Wars. You have revealed, in general terms, the pattern of economic penetration of neutral countries, and especially the United States and Latin America; and you have depicted the systematic efforts of the Germans to sap our potential military strength by the type of restrictive agreement that has become known as the international cartel. In broad outline the story has been told. Remedial measures have, of course, been taken in the course of the war by vesting and freezing enemy property, blacklisting, and similar devices. The problem now, as you have properly pointed out in your last report, is to make certain that in the relaxation of our wartime defenses German economic influence is not permitted to revive. We must, in short, avoid the mistake of the last war when, following the cessation of hostilities, so many of the spearheads of German economic aggression in this country ultimately reverted to German hands.

For the achievement of these ends the evidence that will be uncovered in the course of the occupation abroad is, of course, of the utmost significance. Now that many of the German records are in the hands of the allies and many of the principal actors have become military prisoners, it may be possible to obtain in documented detail a complete inventory of those German holdings and activities in other countries which are the proper subject of concern. In illustration of the point, I shall call your attention to a document made available to the Department of Justice during the first weeks of the occupation which shows the deliberate plan adopted by I. G. Farbenindustrie, A. G., the giant chemical combine referred to so frequently in your hearings, in the effort to prevent the seizure of its interests in the countries that were to become its enemies and to preserve those interests for postwar use.

It is seldom that conspirators sit around a conference table, fashion their plans by formal resolution and prepare minutes of the meeting. This, however, is exactly what was done by the I. G. Farben lawyers and we are fortunate to have obtained a summary of the minutes of a meeting of the Farben lawyers prepared for the Farben directors themselves. The essence of the plan was to avoid those transactions which led to seizure in England and the United States during the last war and instead to transfer title to the foreign Farben holdings to "American friends" or to neutrals which would not be suspect. By far the most striking element in the plan was the confidence of the Farben officials that such transfers could be made without actually weakening Farben interests or influence in the period that would follow the war.

On March 17, 1939, the Juristische Abteilung Farben (the Legal Committee of I. G. Farben) met in Berlin to discuss the question of the "protection of I. G. assets abroad" against seizure by prospective enemy governments and attachment by foreign creditors.

These foreign assets were said to consist principally of (a) sales organizations, (b) inventories, (c) claims, and (d) patents.

The lawyers considered the Trading with the Enemy legislation adopted in England during the last war as the type of control which they would have to safeguard against. It was apparently assumed that no more stringent measures would be taken by Germany's enemies during the war which was then imminent; and I. G.'s plans were accordingly fashioned with an eye to evading the kind of protective measures adopted by the Allies in World War I.

The lawyers pointed out that a certain amount of camouflaging of I. G.'s sales agencies abroad had already been effected for reasons of

"taxation . . . national sales propaganda, . . . to avoid boycotts [and] to avoid special controls applicable to foreign companies."

Thus I. G. interests abroad had been organized

" . . . in such a fashion that I. G. or its several affiliated companies do not openly hold [the] shares or other interests. . . . While formerly the shares or similar interests in these agent firms were largely held by individuals, mostly citizens of the particular country or by companies, as trustees for I. G., this system has, to an ever increasing extent, in the last few years, been abandoned in favor of an arrangement under which shares or similar interests are acquired by individuals or firms with their own means (occasionally assisted by credits extended by I. G.) subject, however, to an option in favor of I. G. permitting I. G. to acquire the shares for itself or to have third parties acquire them."

The I. G. Farben jurists then pointed out that in view of enemy economic warfare legislation it was to be anticipated that if I. G. or "German nationals" were known to be the owners of any interest in the property, seizure would result; if the interest were held for I. G. by non-German trustees living in England or the United States, they would be required to report the beneficial ownership in I. G. and this would again lead to seizure; and if the interest were to be held for I. G. by non-German trustees living in neutral countries the danger of seizure still existed in case the actual beneficial ownership became known. But, the lawyers concluded that "if the shares or other interests are actually held by a national of an enemy country [e.g. an American or English citizen], such holdings will not be affected by economic warfare measures of the enemy, unless the owner comes under suspicion of maintaining relations with the enemy." But should any option to reacquire the property transferred to the prospective enemy be retained in favor of I. G. the arrangement would be annulled since "any contracts that may strengthen the enemy's economic position even after the war, are considered voided by the outbreak of the war." On the other hand "if the shares or similar interests are actually held by a neutral who resides in a neutral country, enemy economic warfare measures are ineffective; even an option in favor of I. G. will remain unaffected."

The only danger in the use of neutrals to which the I. G. lawyers thought it necessary to refer was the situation in which the neutral might be "blacklisted", but the minutes went on to point out that during the last war the English had made "very sparing use of the authority to liquidate assets of a 'blacklisted' neutral resident in England" because of the diplomatic complications involved. Accordingly, the lawyers concluded that

" . . . the risk of seizure of the sales organizations in the event of war is minimized if the holders of shares or similar interests are neutrals residing in neutral countries. Such a distribution of holdings of shares or other interests has the further advantage of forestalling any conflicts which may trouble the conscience of an enemy national who will inevitably be caught between his patriotic feelings and his loyalty to I. G. A further advantage is that the neutral, in case of war, generally retains his freedom of movement, while enemy nationals are frequently called into the service of their country, in various capacities, and therefore can no longer take care of business matters."

The directors were therefore advised that "neutral influences should be strengthened in our agencies abroad by the transfer of shares or similar interests to neutral holders", though it was noted that "the number of trustworthy persons who can be considered as suitable holders of such shares or similar interests is limited." If this method were not possible the directors were told that "it seems advisable to transfer the shares or similar interests to parties who are nationals of the particular country and to provide for options on these shares or similar interests not in favor of I. G. directly but of some neutral party with an ultimate option in I. G.'s favor."

In all this planning officials were careful not to overlook I. G.'s commercial interests after the war. They pointed out that

"... it is necessary that protective measures to be taken by I. G. for the eventuality of war should not substantially interfere with the conduct of business in normal times. For a variety of reasons it is of the greatest importance for the normal conduct of business that the officials heading the agent firms who are particularly well qualified to serve as cloaks, should be citizens of the countries wherein they reside. Consequently, when sales firms are organized and the shares or similar interests in the firms are being distributed, the protection against seizure in war time should, on principle, be only one of several pertinent considerations; in setting up sales organizations a decision must be reached in each case as to the extent to which protection against war seizure can be secured without interfering with other interests that should be safeguarded."

To protect its inventories abroad the device was suggested of pledging I. G.'s foreign inventories to banks and other creditors. I. G. would attempt to obtain credit from foreign lenders in an amount as far as possible equal to the value of the inventories maintained in each country. The lawyers thought that the right of such secured creditors to attach the goods given as security would be recognized in England and in the United States in the event of war. Hence, should there be an attempted seizure of the property, I. G.'s creditors would be protected by their security interest in the goods and I. G. would have already received payment for the property. Accordingly, the directors were advised to obtain credit covering as large a part as possible of the value of inventories maintained abroad.

The difficulties in obtaining credit under this scheme were explored. The lawyers were concerned lest the terms imposed by creditors would make it impossible for I. G. to maintain direct contacts with its customers. I. G. Farben controlled two finance corporations abroad, one in England and the other in Holland, but it was feared that when war came they would be in enemy territory and it was therefore suggested that a similar financing corporation be created in Sweden. The plan for such a company was to include "our Scandinavian business friends, the most important three Swedish and both Norwegian banks" and in addition a Swiss banking firm which I. G. used extensively in its international deals.

The care with which the I. G. officials laid its plans is indicated by the fact that they even considered means of protecting "increases in value [of their goods abroad] which might be caused by outbreak of war." The lawyers regretfully concluded that it would not be possible to capitalize on this rise in values by means of credit arrangements.

As we know, I. G.'s foreign holdings included thousands of valuable patents. Unwilling apparently to contemplate outright sale, the attorneys considered setting up a patent holding company in a neutral country to which I. G.'s patents would be transferred. Such a scheme would entail considerable cost. The transfer of the estimated 28,000 I. G. foreign patents to such a holding company would cost 280,000 M "payable mostly in foreign exchange", a matter of great importance. It was also pointed



out that in the transfer of French patents alone, taxes which would have to be paid would involve an additional expense "in foreign exchange" amounting to 1,000,000 M. I. G. was willing to incur these expenses if the transfer of patents to a foreign corporation would give "even a reasonable degree of protection against the danger of seizure in the event of war". But the lawyers pointed to the fact that under British war legislation, the government could cancel enemy patents, transfer them to a trustee or issue licenses under them. And since for practical purposes such a foreign patent holding company would have to remain in close touch with I. G. in utilizing these patents, "these contacts could not possibly escape the notice of the foreign intelligence service, particularly since, from the outset, such a patent holding company would be suspected because it has taken over our foreign patent holdings." Furthermore, it was pointed out that such a transfer would have to be for a fixed price since an arrangement for the payment of a percentage of profits from the use of the patents would make the neutral a technical enemy because of its acting for the benefit of German interests. And since I. G. was not considering a real sale of its patents such an arrangement would not serve Farben's purposes. It was therefore concluded that protection of its foreign patents from confiscation in the event of war was "practically impossible."

I should state that this pessimistic view of the patent problem was later found to be exaggerated. It was apparently subsequently realized that if I. G. could devise effective means of cloaking the ownership of its foreign business organizations, I. G.'s patents could be protected by transferring them to these companies after they had been "Americanized" or "cloaked" in neutral guise. Thus, early in 1940 in anticipation of the measures to be taken to protect General Aniline and Film Corporation from seizure, I. G. transferred to this large affiliate in the United States most of its American chemical patents. Needless to say, the cloak was swept aside in the United States, with the vesting of the General Aniline stock.

I shall file with the Committee a full (though unofficial) translation of this unusual document because I think there can be no more succinct evidence of Germany's plan to protect its industrial interests abroad from the vicissitudes of war and to permit German industry to resume its international economic activities after hostilities would cease, regardless of who won the war.

There is ample evidence that this plan was not a mere theoretical discussion which went no further than the planning stage. I. G. lost no time in putting the scheme of its lawyers into operation. Shortly after the plan was submitted to the directors in June 1939 measures were taken to safeguard I. G.'s holding abroad through the instrumentality of neutrals as well as nationals of the prospective enemy countries themselves. While many illustrations are possible I think the committee would be most interested in a sketch of how I. G. proceeded to enlarge the neutral participation in General Aniline and Film Corporation, the largest single interest of I. G. abroad. Here too I shall rely upon excerpts from documents from the I. G. files in Germany made available to the Department of Justice since the occupation.

The Committee will recall that after recovering some of its important chemical and dyestuffs properties in this country which were seized during the last war, I. G. set up the American I. G. Chemical Corporation, to become General Aniline and Film Corporation, late in 1939, in which were merged Farben's photographic, dyestuffs and pharmaceutical interests in the United States. In 1928 it formed a Swiss corporation, I. G. Chemie, as a holding company for the shares of General Aniline and Film Corporation. I. G. held no shares in its own name but by a "community of interests" contract with I. G. Chemie and by interlocking management and stockholders, it controlled I. G. Chemie and obtained the right to take over Chemie's assets at any time.

Promptly after the Legal Committee's recommendations were submitted to the I. G. directors, steps were taken to safeguard General Aniline and Film Corporation from seizure. By January 1940, as shown by the applications of I. G. to the German Government to obtain approval of its plans with respect to I. G. Chemie, "several of . . . [I.G.'s] American friends . . . [were] in Basel" and were in "consultation with . . . [I.G.] concerning the best and most successful measures to be taken to avoid the danger" of

seizure "in the event of war entanglements with the United States", and also "against the inroads of our American competitors". The German Government was informed that I. G. and its "American friends are most anxious to prevent that forcible action on the part of the American authorities which would enable our American competition to gain possession of these companies and thereby, as it happened during the World War, obtain the results of our experience". Accordingly, the Reich Economic Ministry was advised in May of 1940 that as a result of many discussions and conferences "measures had been agreed upon for revamping the relationship between" I. G. Farben, I. G. Chemie and General Aniline & Film Corporation. The plan was set forth in I. G.'s letter to the Ministry and was stated to involve the following measures: (1) General Aniline & Film Corporation was to "become somewhat more Americanized" by acquiring from I. G. Chemie 1,000,000 of its own Class B shares; (2) I. G. Chemie was to be "freed from all links which may be interpreted as being under German influence" by the cancellation of certain dividend guaranteeing agreements and by I. G. Chemie's picking up 13 percent of its capital stock held by shareholders in Germany. This was to be done by giving German owners of I. G. Chemie shares equivalent stock in I. G. Farben. German holdings of I. G. Chemie shares were thus to be reduced from about 28 percent to 15 percent. Finally, Geheimrat Schmitz, chairman of the Board of I. G., was to resign as chairman of the Board of I. G. Chemie. The Ministry was further told that careful investigations have shown that these steps provide the best possible safeguard of Farben's interests in General Aniline & Film Corporation. The Farben officials wrote:

"We know from previous experience that our American friends are handicapped in their work for us by the existing links and believe that we must help them in the defense of our interests by carrying out the measures described above which they have recommended to us."

The Ministry was informed that the matter was "particularly urgent" and that the president of General Aniline & Film Corporation, a brother of the chairman of the Board of I. G. Farben, was in Basel at the moment prepared to embark immediately for the United States to take "all steps required" there to effect this plan provided he was assured "before his departure that the execution of the measures discussed has been started and that permits . . . required from the authorities concerned have been promised to us in principle". The matter was urgent moreover because, as I. G. advised the Economic Ministry, it had "decided to safeguard further parts of our extensive patent holdings in the United States by transferring these patent holdings to the General Aniline & Film Corporation". Secrecy was enjoined. The officials were told that "in view of possible repercussions . . . the authorities and ourselves are vitally interested in avoiding the use of the press in handling the entire action".

The German Government was not long in realizing that these measures were in full accord with its interests. The documents reveal that before June 1940 approval had been given by the Economic Ministry and the High Command of the Wehrmacht, and the company was working on the various tax problems which arose as a result of the "reorganization". There was extended correspondence with the tax officials to convince them that no taxes were due on the exchange of I. G. Chemie shares for those of I. G. Farben. The Finance Ministry was informed of the reasons leading to the conversion of the shares. In August of 1940 I. G. Farben's bankers wrote that

" . . . in view of a possible acute war entanglement between Germany and the United States . . . it was necessary to provide the General Aniline & Film Corporation with the appearance of an unquestionably non-German company in order to be able, first to transfer to it the most important American patents of the I. G. Farbenindustrie, and second to prevent the General Aniline & Film Corporation from being considered a company mainly under influence from Germany and being treated accordingly. The latter could have completely destroyed the entire relationship of the I. G. Farbenindustrie to the General Aniline & Film Corporation (in particular the extensive technical collaboration with corresponding financial yields to the I. G. .

Farbenindustrie, and further the export) and could have led to the complete capture of the American position of the I. G. Farbenindustrie by its competitors."

"For this purpose of 'Americanizing' the General Aniline & Film Corporation" the tax officials were advised, the ties between the I. G. Farbenindustrie, and the I. G. Chemie, Basel, the main shareholder of the General Aniline & Film Corporation, had to be loosened considerably. It was urged upon the tax authorities that no profit was due as a result of the transfer of Chemie shares for Farben shares because prior to the exchange the international situation was such that "I. G. Chemie shares . . . must be regarded as virtual I. G. Farbenindustrie shares". The Finance Ministry was told that the transactions had been approved by the various government agencies and it was submitted that "in view of the great political-economic importance of this transaction . . . it would be equitable to waive the speculation profit tax . . ." The letter concludes as follows:

"We must emphasize that at the request of the authorities concerned this conversion must be treated as strictly confidential insofar as foreign countries are concerned and that no publicity must be given to it."

These brief excerpts from I. G. Farben documents afford a sample case history of the March 1939 plan in operation. With respect to the General Aniline and Film Corporation, the plan has thus far been frustrated by the action of the Government in vesting substantially all of the corporate stock which is now held by the Alien Property Custodian. It illustrates nonetheless what it is of dominant importance to remember, that the German war plans embraced a studied effort to avert property seizure during the war, to safeguard the economic position abroad which German industries had carefully built up and to resume that position at the close of hostilities in collaboration with their "American friends".