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UNITED STATES OF AMERICA

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By *SPV* NARA Date *2/4/92*

DIVISION OF *PROPERTY*

Lisbon, May 6, 1949

DEPARTMENT OF STATE

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594255
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CONFIDENTIAL

No. 130

SUBJECT: Partial Implementation Portuguese Safehaven Accord, Decree Law 37,377 dated April 21, 1949.

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THE HONORABLE

THE SECRETARY OF STATE
WASHINGTON, D. C.

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SIR:

With further reference to Embassy's Despatch No. 79 of March 11, 1949, I have the honor to transmit herewith a translation of Portuguese Decree Law No. 37,377 which was promulgated April 21, 1949. In substance law No. 37,377 decrees the partial implementation of the Portuguese Safehaven Accord of February 21, 1947 which is the action indicated in Note No. 11 from the Portuguese Ministry of Foreign Affairs dated February 26, 1949. A translation of Note No. 11 was transmitted with Embassy's Despatch No. 79.

As a matter of additional information the text of the Embassy's Note verbale to the Ministry of Foreign Affairs requesting implementation of the Accord is quoted in Embassy's Airgram A-71 of February 24, 1949 to the Department.

Respectfully yours

For the Ambassador:

Alfred G. Nester
Alfred G. Nester
Counselor of Embassy

RECEIVED
DEPARTMENT OF STATE

MAY 19 1949

RECORDS BRANCH

Enclosure:
Translation of Decree Law
No. 37,377 of April 21, 1949

Original and Hectograph to Department
2 Copies to USPOLAD, Berlin

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TRANSLATION OF DECREE-LAW NO. 37,By WSD NARA Date 2/4/83

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WHEREAS there has been signed by the representatives of Portugal on the one hand and of the United States of America, France and Great Britain on the other hand an Accord which defines the legal position and eventual disposal of assets existing in Portuguese territory as the property of German natural or collective persons domiciled or resident in Germany, and whereas it has become necessary to make legal provision for the execution of that Accord in so far as it relates to the liquidation of those assets,

NOW therefore, by virtue of the power conferred by the first part of the second paragraph of Article 109 of the Constitution the Government decrees and I promulgate, to have the force of law, the following :

Article 1. In accordance with this Decree-Law there shall be considered finally seized and liquidated :-

1. The assets of the German State, whatever be their nature, existing in Portuguese territory at the date this Decree-Law comes into force;
2. Assets, whatever be their nature, transferred to Portuguese territory or there acquired at whatever time and by whatever means by the German war leaders or their associates or collaborators;
3. Assets existing in Portugal and belonging to German collective persons with cultural or propaganda aims considered contrary to international security and peace.

(i) By assets of the German state shall be understood for the purposes of this Decree all assets in the power of any official bodies as well as organisations which, not having juridical personality, have had the independent administration of property for purposes which fall within the sphere of activity of the German State.

(ii) The Minister of Finance shall determine by written decision which of the goods covered by paragraph 1 of the body of this Article shall be exempted from liquidation or be handed over in due course to the States occupying Germany through their diplomatic representatives accredited to Portugal.

Article 2. Any assets transferred to Portuguese territory, or there acquired or used, after the promulgation in 1933 of the German currency laws, by natural persons of German nationality domiciled in Germany between the 1st September 1939 and the 8th May 1945 or by collective persons with economic objects of German nationality shall be deemed to be equivalent to the assets referred to in paragraph 2 of the preceding Article unless their owners prove any of the circumstances mentioned in (ii) of this Article.

(i) All

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(i) All collective juridical persons whose head office or principal establishment is in Germany shall be deemed to be of German nationality.

(ii) The presumption established in the body of this Article may be annulled if it is proved before the Inspeccao do Comercio Bancario that :

a) the assets were not subject to requisition under the terms of the laws referred to nor used directly or indirectly for war purposes;

b) the owner entered Portuguese territory before 1945 as a genuine refugee for political, religious or racial reasons;

c) the owner was deprived of German nationality after March 1933 for religious, political or racial reasons.

Article 3. The Department of the Inspeccao do Comercio Bancario responsible for German assets shall perform the following functions :

1. Take note of the files of census organized in the colonies under the terms of Decree-Law No. 34,600 of the 14th May, 1945;
2. Investigate and discover the existence of assets affected by this Decree-Law which by fraud or any other means have not been included in the census provided for by Decree-Law No. 34,600;
3. Organize the processes of seizure of German assets to be liquidated and give notice to the interested parties or their representatives with sufficient powers to answer within a delay of thirty days such answer as they may think fit;
4. Evaluate the proof referred to in (3i) of Article 2;
5. Declare the seizure of assets to be liquidated.

(i) The delay referred to in paragraph 3 of this Article shall be counted from the date in which notice shall have been given.

If the owners do not live or are not present in Portuguese territory nor have there a representative with sufficient powers, notice shall be given through the intermediary of the Allied Governments and may be given by general public notice according to the law in force in the various zones of occupation whenever the owners are absent in a place unknown from their last place of residence or when their last place of residence is unknown.

(ii) The lack of opposition by interested parties within

the delay

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the delay laid down in paragraph 3 of this Article, except for those who can claim and prove force majeure, shall be deemed equivalent to a tacit acceptance of seizure for the purposes of the first part of Article 5.

(iii) The Inspeccao do Comercio Bancario shall seize without regard to length of notice or any other formality the assets of natural or collective persons who, through the intermediary of the Allied Governments, present to it authentic documents by which they declare that they surrender their assets to be liquidated.

Article 4. Appeals from all decisions made by the Inspeccao do Comercio Bancario in matters within their competence governed by this Decree-Law shall be judged in the second and final instance by a special tribunal composed of three Portuguese citizens appointed by the Minister of Finance who shall entrust the presidency to one of them who shall be named by the President of the Supreme Tribunal of Justice.

(1) The right to make the appeals referred to in the body of this Article belongs to the duly authorized representatives of the owners of assets which are the subject of decisions by the Inspeccao do Comercio Bancario and to the legal representatives of the Allied Governments.

Article 5. Assets whose seizure has been determined by legally valid decision shall be handed over to a Liquidating Commission which shall proceed according to the provisions of Decree-Law No. 50,582 of the 27th August of 1940, so far as it is applicable, to liquidate them rapidly by sale, cession or other legitimate means permitted by Portuguese law.

(1) The Liquidating Commission referred to in the body of this Article shall consist of three members appointed by the Minister of Finance, one of whom shall be chosen at his discretion, another nominated by the Allied Governments (France, Great Britain and the United States of America) and the third, who shall preside, proposed by agreement between these two; if they are unable to agree on the selection of the third member he shall be named by the Minister of Economy.

Article 6. Any of the members of the Liquidating Commission shall be liable of the assets to be liquidated for any of the following:

1. Manifest insufficiency of price.
2. Failure on the part of the buyer or cessionnaire to guarantee that he is not acting on behalf or in the interest of German nationals covered by this Decree-Law nor of German organizations nor of organisations in which there exists a substantial German interest.
3. Damage which the acts of sale or cession may cause to the Portuguese economy or to commercial activity within Portuguese territory.

(1) The opposition

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(1) The opposition shall be considered in a session called for the purpose and in cases 1. and 2. shall be decided by a majority of votes. In case 3., after having been duly examined, it shall be brought to the attention of the Inspeccao do Comercio Bancario for final decision.

Article 7. Deeds establishing liens on assets covered by this Decree-Law which were executed after the 24th August 1939 are liable to annulment as suspect of bad faith. The presumption of bad faith may be removed by proof of good faith in the first instance before the Inspeccao do Comercio Bancario and in the final instance before the special Tribunal referred to in Article 4.

(1) Deeds executed before the 25th August 1939 can only be annulled by proof of bad faith.

Article 8. In the liquidation of the assets general voluntary mortgages shall not be taken into account unless they are shown to have been specifically registered in the appropriate Property Register before the date on which Decree-Law No. 34,600 came into effect or to have been already established and in the process of being registered at that date.

Article 9. The functions of the Liquidating Commission may be carried out by deputies whenever it is advisable, subject to the authorisation of the Minister of Finance.

Article 10. The remuneration of the members of the Special Tribunal, the Liquidating Commission and its delegates shall be fixed by written decision of the Minister of Finance and paid from the proceeds of the liquidated assets.

(1) To meet this charge the Liquidating Commission shall deduct from the proceeds of each liquidation 1% of its value which shall be deposited in the Caixa Geral de Depositos, Credit e Previdencia in a special account to the order of the Inspeccao do Comercio Bancario.

The proceeds of each liquidation shall be deposited in the Caixa Geral de Depositos, Credit e Previdencia to the order of the Inspeccao do Comercio Bancario.

The expenditure incurred by the Inspeccao do Comercio Bancario in the execution of this Decree-Law shall be borne by the Item of Escudos 130,000,000 in the Estimates of the Ministry of Finance, Chapter 18, Article 374.

(1) The payment of this expenditure is subject only to the approval of the Minister of Finance.

Article 13. The Minister of Finance shall, on the recommendation of the Inspeccao do Comercio Bancario, authorise by decision published in the 'Diario do Governo' the release of those assets covered by Decree-Law No. 34,600 which are not liable to liquidation.

(1) The provisions

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Enclosure No. 1 to Despatch No. 130 dated May 6, 1946 American Embassy, Lisbon.

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(i) The provisions of this Article are applicable to assets covered by Decree-Law No. 34,455 of the 22nd March 1945 of the objections referred to in Article 3 of that Decree-Law have not been presented by the 30th June 1950.

Article 14. Liquidations already ordered under the provisions of Decree-Law No. 35,612 of the 26th April 1946 shall continue until they are finished.

Let it be published and its provisions complied with.

TO BE PRESENTED TO THE NATIONAL ASSEMBLY

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