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COMMUNICATION FROM DR. HEINZ LANGGUTH  
CONCERNING TANGANYIKA

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rules of procedure of the Trusteeship Council)

Dr.Dr. HEINZ LANGGUTH

HAMBURG 1, July 1, 1957  
Rathausmarkt. Fölsch-Block  
Eingang Plan, I. Stock

To: The Trusteeship Council of the United Nations

Att: of Under-Secretary for Trusteeship Information  
from non-Self-Governing Territories,  
Mr. B. Cohen

NEW YORK, USA

Sir,

Re: Petition on behalf of Mr. Walter Kahle T/PET.2/208, T/PET.2/208 Add.1

Please find enclosed my comments to the Observations of the United Kingdom  
Government as Administering Authority relative to the above-mentioned concern.

To my great regret I was not in a position - in view of the exchange of  
correspondence with the petitioner in Mexico and his attorney residing outside the  
Federal Republic of Germany - to prepare and forward these comments before.

In this interest of Mr. Walter Kahle I would submit the request of still  
transmitting these comments, prior to reaching a decision in the Standing Committee  
on Petitions resp. in the Trusteeship Council, to the members of both these organs  
so that they may have knowledge of these comments before they come to a decision.

Yours faithfully  
Dr. Langguth (Signed)

Dr.Dr. H. Langguth

Dr.Dr. Heinz Langguth

Hamburg 1, July 1, 1957

To: The Trusteeship Council of the United Nations,  
NEW YORK, USA

Gentleman,

Re: Petition on behalf of Mr. Walter Kahle  
T/PET.2/208. T/PET.2/208/Add.1

Comments to the Observations of the United Kingdom  
Government as Administering Authority:

In the light of the Observations of the United Kingdom as Administering Authority I would take the liberty of submitting the following arguments as a response in the interest of Mr. Walter Kahle:

on point 2: The Administering Authority does recognize that Mr. Kahle's status as a Mexican national has been established. But the Administering Authority asserts that the Administering Authority does not, however, in any way agree with the allegation that the seizure and disposal of those assets was unlawful.

The Administering Authority submits that the Custodian of Enemy Property thereupon took possession of Mr. Kahle's property in the reasonable belief that he was an enemy subject.

(1) Relative to these submissions brought forward by the Administering Authority, the following facts deserve special emphasis:

- (a) Mr. Kahle was born of German parents in Mexico more than 50 years ago.
- (b) Mr. Kahle came to Tanganyika to invest there with the idea that there was not only a future in Tanganyika but also to move his capital out of Mexico in connexion with nationalization of estates and capital under her rather communistic government. That he associated himself with Germans was logic, as practically no other nationals were there except some Greeks and Indians. Practically all

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estates and trade-companies were in their hands.

Mr. Doelger was a coffee expert and willing to be appointed as his general manager. Anyhow it was in 1937 no crime to appoint a German.

- (c) The seizure of the possessions of Mr. Kahle did not occur in the reasonable belief that he was an enemy subject but on the premises, that Mr. Kahle entered Tanganyika in 1937 on a German passport. This was entirely untrue (compare petition, page 5, Annex "L").
  - (d) It may be possible that Mr. Kahle wanted to see his parents in Germany, who were there after a 60 years' stay in Mexico, but the main cause was, that he wanted to free out of jail his father who was put there by the Hitler regime. Shortly before his death, this old man was freed and died in Hanover.
- (2) The Administering Authority does not claim either that the petitioner was an enemy subject at the time Mr. Kahle's property "was vested in the Custodian" (petition, page 3, item 3, Annexes "I", "J"). It insinuates, however, that those measures imposed at the time by the Custodian took place in good faith (see item 6). From the facts that Mr. Kahle had a manager who was a German national and that Mr. Kahle had a visitor's visa for Germany issued to him on July 25th 1939, i.e. 6 weeks prior to the outbreak of War, it cannot solely be implied that the Administering Authority was in good faith when, on September 3rd 1939, Mr. Kahle's property was vested in the Custodian; for the measures rested on the surmise that the petitioner was a "national of a State at war with His Majesty" (cf. Chapter 240, Trading with the Enemy 2 (1) (a)). Or, that the petitioner was a resident of Mexico and not of an "enemy territory" (see 4 (1) (b); cf. 9 (a) chap.240).

The Administering Authority and the Government of Tanganyika-Territory could have rapidly obtained, without difficulty,

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information from their immigration authorities as to the nature of passport in Mr. Kahle's possession when he entered Tanganyika-Territory and could have also approached his attorney in Tanganyika-Territory with a view to ascertaining immediately his place of residence at the time of outbreak of the war resp. subsequently.

on point 3: Even if the seizure in 1939 occurred in good faith, the following deeds in the subsequent years were not so and the Tanganyika Government should have endeavoured to be very careful not to make a second mistake.

Relative to the submissions brought forward by the Administering Authority, the following arguments call for ventilation:

- (1) (a) Mr. Kahle was "technically" not a German, but substantially. He had even no German national ties whatsoever (see petition page 3, Annexes "C", "D", "E", "F", "G", "H").
- (b) As the first one of these unlawful deeds, was the arrest and so-called deportation of Mr. Murriss. Mr. Murriss was appointed in the Netherlands and subsequently went to Tanganyika after a 16 years' plantation career in the Dutch East Indies of which 14 years with one of the largest plantation concerns there. The arrest and deportation was a pure infringement of the "human rights" recognized by all civilized states and especially accepted by the United Nations Organization. Mr. Murriss was arrested, thrown into a truck together with sacks of sweet potatoes, gasoline cans, etc. and transported through the night over 400 miles, through jungle and over bad roads to the jail in Tabora. He was even not allowed to take his personal belongings with him or clothing and the whole 400 miles he only could half lay, half sit on the floor of the sacks of potatoes. Not once was Mr. Murriss' case brought before a judge, a committee or was he told, why he was arrested. Not once did a police officer, a district attorney, a lawyer or any other official

ask him questions or make inquiries. The Netherlands consul was told, that "Mr. Murris was arrested for giving vent to anti-British utterances", which were never proven and this allegation is untrue. Mr. Murris had nothing on his conscience, was not a member of any political party and his only fault was, that he tried to make Kahle's Estates a free good running and independent concern. In this connexion it has to be inquired in, whether the Tanganyika Government, being a Mandatory Territory Government had the right to treat in such a manner a Mexican national whose rights were safeguarded by Article 22, section 5 of the Statute of the former League of Nations and by Article 7 of the Treaty of Mandate of the 20th July, 1922 in respect of Tanganyika Territory. The Defence Regulations quoted in those Observations had - owing to the mandatory character evolving out of the above-mentioned international obligations towards a Mexican national - no legal basis to arrest a Dutch citizen without a judiciary warrant of arrest and for a deportation - as it has happened (Observation, item 4 and Affidavit Mr. Murris).

- (c) Even during the imprisonment of Mr. Murris, efforts were already made to seize Mr. Kahle's property anew.
- (2) The Administering Authority even concedes that a was established, to the satisfaction of the Custodian that Kahle was not in Germany and was a Mexican citizen; the property was released in 1940.

These determinations are of primordial importance relative to the question, whether the repeated confiscation (see item 4 of Observations) has occurred in good faith.

on point 4: As a matter of fact, the position is that the largest part of the property Kahle was in the name of the father Guillermo Kahle and confiscated at the time of Mexico's declaration of war resp. was put

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under trustee's administration. Not only was the property of the German nationals confiscated in that way, but also that of naturalized Mexicans or, as in the case of Walter Kahle, of Mexicans by birth of whom it was supposed that they had a pro-German attitude. Now, Mexico has in 1950 returned the whole German property, undiminished, to the original owners.

The property confiscated in the Tanganyika-Territory did not belong to the father of Mr. Kahle, but to the petitioner, Mr. Walter Kahle. According to the Tanganyika-Territory laws (see petition, page 10) there were no legal grounds present for the confiscation of Mr. Kahle's property, after he had - as stated in connexion with item 4 of the Observations - proved his exclusive Mexican nationality and was not a resident of an Enemy Territory, either (see petition B, I, 4 a - k).

In virtue of the evidence submitted to the Custodian (petition 4 a - k) he resp. the Government of Tanganyika-Territory was not entitled to impound Mr. Walter Kahle's property; if, in virtue of the communications contained in the United Kingdom statutory list issued by the Board of Trade and applied to Tanganyika by General Notice of 18th June 1943, he deemed any declarations to be indispensable, he would have been at liberty secure same at once from Mr. Kahle's attorneys who had legitimated themselves as to the documents (see B, I a - k).

In 1947, 48, 49 and following years Mr. Murris wrote several times to the Tanganyika Government, putting forward claims, asking for information etc. etc. but only two answers came, viz. that the Tanganyika Government did not intend to do anything in the matter and that the properties of Mr. Kahle were since 1939 vested in the Custodian of Enemy Property, to be written off against German reparations.

This information was incorrect (see petition Annex "G"), as may be deducted from the Observations of the United Kingdom Government as Administering Authority itself on item 3 - 4.

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on point 5: In virtue of the incontestable evidence submitted by the petitioner (petition B, I, a - k) to the effect that since 1939 he had the sole Mexican nationality the Government of Tanganyika-Territory was not authorized - in virtue of the laws quoted by itself (Cap. 258 of the Laws of Tanganyika) - to dispose of Mr. Kahle's property, even if one surmized that the Government was entitled to confiscate Mr. Walter Kahle's property anew for the second time; for as per documents submitted (petition B, I, a - k 2, Annexes "D" and "F", "G" and "H") it was clear beyond the shadow of a doubt that the petitioner was exclusively a Mexican national. The ordinance relative to the petitioner's property was, thus, unlawful (see petition, page 10, item 2).

on point 6: The measures ordered relative to the confiscation and above all in connexion with the second confiscation are, in view of the elucidated state of affairs, not to be regarded as having taken place "in good faith", especially considering that prior to the second confiscation incontestable and amply recognized evidence was submitted to the effect that the petitioner exclusively possessed the Mexican nationality and was not resident of an enemy territory (Observations, item 3 and petition, page 6, 4 h).

Thus there were no legal prerequisites available to warrant the confiscation. To a quite particular degree the ordinance relative to Mr. Walter Kahle's property has not taken place in good faith, for the documents handed over clearly reveal Mr. Walter Kahle's Mexican nationality.

However, in virtue of the laws of Tanganyika-Territory (Capt. 258 of Laws of Tanganyika) the property of a Mexican national could not be disposed of. There was just as little good faith prevalent when the Custodian sold part of the Kahle property at a ridiculously low price to his former attorney; for Mr. Kahle's attorney was exactly aware of the exclusively Mexican nationality of the petitioner.

Mr. Kahle's representatives have already declared at the time of the first confiscation as well as at the time of the second confiscation that they claim full indemnification for the confiscation of the property. Such claims were filed since 1947 by Mr. Murris and, after the ordinance regarding the property, by the London solicitors of Mr. Kahle, repeatedly. On the part of the undersigned representative of Mr. Kahle this has been done by letter dated September 4th, 1956. The Member for Lands and Mines has, however, declined all claims for indemnification and also an Exgratia payment. The Mexican Government has made amends for the tort inflicted upon him and the Mexican Government has no guilt relative to the occurrences in Tanganyika. Thus, the Tanganyika Government alone, is competent for these claims. Any country in the whole world is under obligation to make amends, especially when it has pronounced a misjudgement in "good faith" and when it is conspicuous subsequently that it was, indeed, a misjudgement.

The petitioner's claims to indemnification on the ground of deeds lacking good faith relative to the Custodian's activity are not superannuated today, contrary to the assertions contained in the Observations (Article 22, section 5 of the Statute of the former League of Nations and by Article 7 of the Treaty of Mandate of the 20th July, 1922 in respect of Tanganyika Territory).

For such violations of law the petitioner may engage upon the course of appealing to the Trusteeship Council in accordance with regulations of procedure. A restriction of these rights on the ground of the stipulations of the Enemy Property (Final Disposal) Ordinance 1954 - mentioned in the Observations - is not applicable here.

Due to the measure taken by the Custodian resp. by the Member for Lands and Mines the Mexican national, Mr. Walter Kahle, has suffered a tort and damages amounting - as per computations contained in the Supplementary Communication (T/PET.2/208/Add.1) relative to the Kiswere and Luwati plantations - to Sh 55.420.605.64.

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It might be the function of the Trusteeship Council to arrange a settlement regarding compensation of the tort proven within the frame of the petition and the supplementary petition.

Therefore, the claims made in the petition, page 15, a and b might be considered as warrantable.

Yours very truly,

(signed)

H. LANGGUTH  
D.R. Dr. Heinz Langguth

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