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**Miscellaneous Advice to American Importers
making purchases thru German Houses (21.07.1923)**

Memorandum

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Formalia:

Maschinenschriftliches Memorandum

Regest:

Die hier präsentierte ausführliche Schilderung des US-amerikanischen Vizekonsuls in Hamburg, Maurice Walk, beschreibt - teils als Analyse, teils als Warnung an US-amerikanische Geschäftsleute, die in Deutschland zu tun hatten - die Geschäftsmöglichkeiten und Risiken, die sich aus der Hyperinflation ergaben. Letztere strebte damals mit zunehmender Geschwindigkeit auf ihren Höhepunkt zu, die sie schließlich im Herbst 1923 erreichen sollte. Die ausführliche Schilderungen der Möglichkeiten betrügerischer Geschäftspraktiken ist für das Verständnis der Inflation hilfreich und zeigt, zu welchen Unwägbarkeiten diese führte.

Zugleich zeichnet Walk aber auch ein Sittenbild eines Geschäftslebens, in dem man stets auf der Hut zu sein hatte und niemanden mehr vertrauen konnte. Die Deutschen waren für Walk dabei in erster Linie ein Opfer der Umstände, was die Sache für potentielle US-Amerikanische Geschäftspartner aber nicht besser machte. Trotzdem hegte er die Hoffnung, dass bei einer Besserung der Verhältnisse und einer Stabilisierung der Währung sich auch die Geschäftsmoral wieder aufrichten könnte. Walk liefert hier eine Außensicht auf Phänomene, die innerhalb der deutschen Gesellschaft intensiv diskutiert wurden, nämlich die "moralischen" Auswirkungen, welche die Inflation auf die deutsche Gesellschaft hatte.

AMERICAN CONSULAR SERVICE

Miscellaneous Advice to American Importers making purchases thru German Houses: Supplementary to report number 83, 1922)

From: Maurice Walk, American Vice Consul

The American Consulate (Date of Preparation, July 17, 1923.

Hamburg, Germany (Date of Mailing: July 21, 1923.

Most American Importers of German products operate thru German forwarding houses. This is unavoidable since these forwarders are alone in the position to attend to the multitudinous number of administrative regulations and shipping details connected with shipments to foreign countries. Such an arrangement works out satisfactorily enough when the purchaser is in personal contract with his German forwarder and with the particulars of each purchase. But the ordinary business man can not afford the luxury of these personal visits very often.[2] At some time he must return to America and leave the responsibility of further purchases in the hands of these forwarding agents, or "speditioner" as they are called. The understanding that usually exists between both parties is that the spedition will buy for the account of his principal certain kinds of goods specified beforehand or the kinds that may be ordered on occasion, and forward them to America with a bill including cost of the goods, commissions, and various incidental expenses. Business men are verywhere[sic!] familiar of course with the ordinary dangers and abuses of this kind of confidential relationship. But there are

other and special dangers arising out of the peculiar chaos of the monetary system and an ensuing laxness of business morality, that are deserving of special attention. To these we shall advert in the following paragraphs.

1. The forwarder in many cases is able to speculate at the expense of the American importer. This is true whenever their business relations involve a conversion of bills from one currency to another whose relative values are constantly fluctuating. There are three ways in which the purchases of an American importer in Germany can be financed. Goods may be bought in marks and paid for in marks; or they may be bought in dollars and paid for in dollars; or they may be bought in marks and paid for in dollars. In the first two cases there is no chance for the forwarder to speculate at his principals expense since the same currency is used thruout the transaction. But the first method is practically never used at the present time since the function of the mark as a medium of exchange in international transactions has fallen into complete desuetude. The second method of buying and paying in dollars is coming into increasing use and in some classes of commodities is stipulated by the export control commission as a condition precedent to the granting of export permits. These foreign exchange prices^[3] for the export trade are fixed by the manufacturer or the manufacturing syndicate in such a manner as to approximate international prices as closely as is consistent with underselling their competitors in the worlds markets. On a depreciating mark they are always substantially higher than the prices current for the same article in the domestic trade. Foreign purchasers have consequently the very greatest inducement to purchase at domestic mark prices if possible. This function they usually place in the hands of the speditioner, the forwarding company, which has connections, is acquainted with the domestic market and knows where and how to buy the goods in question; The spedition pays for the goods in marks, converts into the foreign currency at the rate current on the day of payment in order to protect itself from the danger of mark fluctuation and charges, this amount to the importer together with commissions and incidental costs. It is in this process of conversion, incidental to the third method of financing the purchases of foreigners, that the forwarder sees the opportunity of winning speculative gains at his principal's risk.

Suppose the case of I, a New York Importer who gives instructions to F, his German forwarder, on May 15th. to buy a certain kind of specified goods. The purchase is made from a manufacturer in marks and the bill is sent F. on June 1. The bill is paid by F on June 5th. In the mean time the mark has been rapidly depreciating. On June 1 it may have been 40,000 to the dollar; on June 5th. 80,000. A bill is rendered by F to I in dollars in which the rate of exchange used to reduce the mark total was the rate on June 1, 40,000 to the dollar. Had F charged the rate at which he had actually bought marks the bill would have been half as much. As is too often the case the other half goes into F's pocket as a^[4] speculative gain. Suppose the exchange goes the other way in the interval between June 1 and June 5. In that case F is very voluble in explanations showing that the manufacturers invoice did not arrive until June 4, or that there were some irregularities in billing the goods which required adjustment etc. In that case he charges the rate at which he actually bought marks on June 5 and has lost nothing by the deal, that is, none of his own money.

The temptation to play with the dollar account of a principal is so great that it is not surprising to find even the largest and most illustrious houses engaged in this questionable practice. Under present conditions it requires but a very few days to reap substantial winnings thru the exchange movement. Even though the foreign principal leave[sic!] definite instructions to buy marks out of his account on the very day that the manufacturers or wholesalers invoice is received, it is easy to explain away the interval of two or three days that are necessary to a speculative operation. It is precisely because of the ease with which, in this respect, the principal's instructions are evaded, that the problem of protecting the foreign importer from these predatory practices is rendered extremely difficult. Certainly mere technical or mechanical safeguards are of little avail. However specific the instructions might be, it is not possible to reduce the task of converting from one into the other of two relatively fluctuating currencies, to a routine whose accuracy and honesty of performance are amenable to certain checks. Granted that F is instructed to convert on the same day that he receives the manufacturer's invoice. But at what time during the day, and in what bank, and what proof is there of the actual rate at which F bought, when there are almost always considerable disparities between the rates quoted in the^[5] different hours of the day and between the exchanges of different cities? It must be apparent that the task of converting is very largely a discretionary one and however minutely it is defined and circumscribed it is not possible to dispense with the fiduciary qualities involved. No accounting technique can ever really specify exhaustively, relationships between people, even when relationships be of a purely business nature. It is peculiarly inadequate when one

of the parties is three thousand miles away. Under such conditions, confidence in the integrity of ones business associates is indispensable to the existence of this type of business relation.

Unfortunately it is in satisfying this fundamental axiom of business practice that great difficulty is encountered by persons who desire to carry on business dealings, in absentia, with contemporary Germany. The instability of the currency has dissipated many of the most respectable forms of propertied interests, and has made the principles of contract, formerly the bastions of their security, into the instruments of their expropriation. It would be strange indeed if this development had left unaffected the sense of obligation and the current notions of business ethics in the business community. The old social organisation, sure of its fundamentals and eminent in its observance of written law and imponderable tradition has dissolved. A new business morality has risen reflecting the uncertainties in the country's economic und political life as well as the insecurity of property rights, and proceeding as a result, from the postulate of business as a process of mutual spoliation. This phenomenon is capable of being explained and interpreted in the most sympathetic manner as the inescapable consequence of abnormal conditions, but it is nevertheless a fact and a fact that cannot be ignored without loss by American business men.

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The decay of german[sic!] business morality is nowhere more evident than in the business relations with foreigners. We see contracts entered into with the intention of breaking them when they cease to be profitable; we find agents padding unconscionably the accounts of their foreign principals, misrepresenting prices, speculating with their principal's money, using the cover of multitudinous legal regulations to charge nonexistent expenses, availing themselves of every opportunity or pretext to assess extra charges. We do not assert such practices to be universal; nor that they occur in a majority of transactions with foreigners. We do assert them to be of such frequency that the tipical[sic!] American is warranted, if not compelled in his own interest, to revise those preconceptions about the average dependability of mankind in discharging fiduciary duties, on which he has learned to act in his business relations at home. He, must learn to season his all too ingenuous confidence with extreme circumspection. He must forget that the other fellow will do the right thing and keep in mind that the other fellow will insist on the letter of the bond. He must draw up the meticulously worded legal document and keep the contract by hand shake and the gentlemen's agreement until he returns home.

Our conclusion then with reference to the common type of business relation under discussion.-where a German forwarding house purchases in marks for his American principal and effects a conversion from marks into dollars is that no assured methods are available to protect the principal from the agent's speculation. Technical devices can be evaded. Complete confidence in the agent's reliability is not justified by experience or by the prevailing spirit in the business community. An American who proposes to enter into this sort of Business arrangement must consequently expect, in advance, some loss in the conversion of mark bills into dollars, as well as small losses of a kind to be discussed elsewhere. It is possible[7] nevertheless to keep this speculative risk within narrow limits by observing the following advice:

(a) The agent should be instructed to purchase marks on the same day that the manufacturers invoice is received.

(b) The agent should be required to purchase marks in the name of the principal and to furnish the principal with the duplicate copy of the bank's voucher showing the name of the principal for whose account the transaction was made, the number of dollars converted and the rate of exchange at which converted. This is the best technical check but it also can be evaded without great difficulty. While the name of the person for whose account marks are bought or sold must be stated, by law, on the exchange voucher, it is a mere clerical requirement whose accuracy is never subject to scrutiny by the bank or by the government. The agent representing a number of firms and continually buying and selling foreign monies, can easily substitute names and make it appear that he had covered a certain purchase, when in reality he was holding the dollars for speculation. Nevertheless the bank voucher is the best available amounting check of the agents financial transactions and should be insisted upon in making financial settlement.

2. The American principal should be careful to see that he pays no more than the prices charged by the manufacturer. Owing to the exchange conditions increases in price do not occur gradually but by large leaps. It very frequently occurs, under these conditions, that goods are worth a great deal more when delivered than

the price at which they were purchased. The agent often finds that if he had waited two or three days before buying the goods, the costs to his principal would have been substantially more. What is more natural than that he should regard this difference as due to his unique perception of market conditions and should reason, from the consideration that prevailing market prices should be paid, that his principal has no moral claims to a sum which should rather be regarded as a[8] reward to his special abilities? Whether this be the process of the agent's reasoning or no, the fact is that American importers have discovered very often that they have been paying greater prices than those charged to their agents by the manufacturer. That this has been possible despite the practice of furnishing the principal with a copy of the manufacturers invoice is a commentary on the lack of caution with which Americans transact their business here. The agent in many cases has simply filled out a form copy of the manufacturers[sic!] invoice himself, after obtaining some blank form on the pretext that he needed extra copies of invoices for his files or for a variety of apparently innocent purposes; and after filling in his own prices, passes on the pretended copy of the manufacturers[sic!] invoice to his principal. This fraudulent[sic!] practice can be defeated very effectually by requiring the agent to present a copy of the original invoice signed by the manufacturer himself.

3. Another sharp practice should have attention called to it; but it is one which unfortunately cannot be easily guarded against. It is the matter of magnifying the amount of taxes which must be paid to the German Government in exporting the goods. There are two difficulties in checking up the accuracy of the agents[sic!] charges; one is the multiplicity of these taxes, the other is their changing character. The four main taxes are the export tax, the turn over tax, the luxury tax, and the consumption tax. Some commodities are subject to the payment of all taxes; some to the payment of none; others to the payment of some of the taxes, but not of all. Furthermore the free and the dutiable lists are changed very often. And to complete the terrifying intricacies of this system, the ad valorem percentages are changed with such considerable change in the economic situation of the country. The most important and as it happens the most volatile of these is[sic!] taxes, the export tax. There are almost weekly changes in its dutiable and free lists, and at certain junctures[9] when the export trade is suffering under the depressive influence of a high mark quotation, the operation of the export control is almost wholly suspended. Obviously it is very difficult to keep in touch with these changes unless one is on the scene, so that systematic misrepresentation of the amounts of these outlays is very easy and lucrative. The only feasible way to avoid this imposition is to obtain information concerning the taxes imposed by law directly from the Aussenhandelsstelle[sic!] and the Finanzministerium at Berlin and to check the facts so obtained against the agent's statements.

4. Other incidental charges such as freight and packing are likely to be multiplied surreptitiously before reaching the American principal for payment. Of course padding of expense accounts is not a practice peculiar to German agents. The point is that it is much easier for them to pursue the practice successfully owing to existence of abnormal conditions. It is much easier because it is easily concealed. Freight rates are charged about every month; river freight as often; packing and drayage about every trip. In the case of large freight shipments, such as paper from upper Silesia to Hamburg, the freight bill has often amounted to more than the ocean transportation to New York. In such a case an agents[sic!] graft may be more than a bagatelle. It is advisable whenever considerable amounts are charged for these incidental expenses to require the agent to submit the original receipts and freight bills.

5. Another matter which should be attended with the greatest circumspection is the mechanics of making financial settlement and of carrying bank accounts. The typical sale of goods for export is made for cash against shipping documents F.O.B. Hamburg and is paid for by the foreign importer either outright in the foreign currency or in marks by converting foreign bills on the day of payment. In either case, if the foreign merchant is not on the scene to attend to these details he must leave[10] a balance, say in dollars, at the bank to be paid out against the documents by the bank or on the order of his agent. The usual course of procedure, the one that naturally occurs to the foreign merchant is simply to make the deposit of dollars at the bank with the usual instructions concerning the kind of documents to be presented before the money is paid out. This procedure, the customary in international finance, cannot be followed in Germany under present conditions, without serious danger to the funds so deposited, as many Americans have already discovered to their great loss. The dangers arise out of certain bank practices, and certain peculiarities in the German law which, when taken in conjunction with the instability of the mark, are very apt to effect a direct diminution in dollar accounts and other dollar obligations (see report no. 189 dated Oct. 28, 1922)

Paragraph 244 of the German Civil Code reads that debts expressed in a foreign currency and falling due in Germany may be paid in marks at the current rate of exchange. Even under normal conditions this rule throws a heavy burden on the creditor since he has to bear the cost of conversion back into the currency in which the debt was originally expressed. Since the mark is constantly fluctuating the cost of conversion is now very much greater and an interval always supervenes between payment in marks and conversion into the stable foreign currency when a substantial depreciation may occur in the value of the mark which would *pari passu* diminish the dollar value of the obligation. As conditions have recently developed this law has even more serious consequences. The "Divisenverordnung[sic!]" of June 1923 has closed the open market for the purchase and sale of foreign bills and notes and has required all these transactions to be carried out thru the Reichsbank or its agents. While it remains easy to sell foreign bills their purchase is attended with the greatest difficulty. In the first place the object for which the purchase is made is scrutinised. The purpose must[11] be a "legitimate" one, such as the payment of imports. It would be most difficult for our American who has collected marks on his dollar obligation, to convert into dollars since the very object of the new law is to discourage the flight from the mark into the more secure foreign currencies. Even if he were permitted to purchase dollars from the Reichsbank, he would be granted, at the present time, only from three to five percent of the amount he wanted, under the System of "repartierungen" or allocation of only a small percentage of the demands. But the most serious consequence of that law is that the official German rate of exchange is now kept substantially below the quotations from the other international financial centers. The Reichsbank which now fixes the rate naturally has an interest in keeping it as low as possible and has maintained the dollar quotation during this week at about 180,000 altho the rate came out of New York as high as 296,000. Under this state of things the American who is forced by law to accept, in payment of a dollar debt, German marks at the official German rate of exchange would find that he received from seventy to eighty percent of the dollar value of his debt and that he could cover himself against further depreciation only by converting outside of Germany. Under these conditions it is quite apparent that an American should be extremely cautious in entering into transactions with Germans thru which it is possible for dollar obligations to fall due in his favor.

The simple remedy for this state of affairs is to specify in the instrument defining the legal relations of the parties that the obligation which is stated in dollars must also be paid in dollars, either in United States currency note or by draft in dollars on New York. The German law requires the payment of an obligation in the foreign currency in which it is stated, where such mode of payment is specifically called for. It must be repeated that it is not enough for the purposes of this proviso that the obligation is stated in a foreign currency. That this is the currency to be used in effecting payment must be stated beyond[12] peradventure[sic!].

The failure to specify this condition clearly and unambiguously has been an outstanding source of loss to Americans. The high relative purchasing power of foreign monies in the domestic market has sharpened the universal eagerness for their possession. Once in his hand the average German is very loath to part with them, especially in view of the present difficulties which surround their acquisition. If he is able legally to pay in marks, a debt expressed in a foreign currency he may be counted upon infallibly to do so. He rids himself of a very dangerous form of property whose value is dissolving in his hands and keeps a kind of property that has stable value and easy negotiability. The banks show particular tenacity in withholding foreign money and insisting on a mark settlement. There is the case of X an American miner who in May gave \$10,000 in liberty bonds to the W bank for collection. He had no written agreement and no specific understanding with the bank, taking it for granted naturally that he would get his dollars. In June he approaches the bank for his money and is asked to take marks at the rate in May when he deposited the bonds. The mark rate in the meantime has depreciated 80 percent. Or there is the case of Y an American business man who was cabled \$1000 thru the D bank of Hamburg. He informed the bank to deposit the money to his credit taking it for granted that he could draw in dollars. After a month had elapsed Y came for his money and was asked to take marks at the rate when the account was opened. In the meantime the mark rate had depreciated 50 percent.

Instances could be multiplied indefinitely[sic!] where the failure to specify that the dollar obligation was to be paid in dollars has been taken advantage of by banks and by individuals to pay in a depreciating currency. But even where no loss thru depreciation is suffered and marks at the current rate for dollars[13] are promptly paid, there are other losses stated at length above which may result out of the failure to state specifically the mode of payment. These, to repeat, are the acts of conversion which may very easily be shifted to the creditor. In May A deposited \$700 in the B bank opening a dollar account. The bank agreed it was to be a dollar account. When

A wanted to withdraw her money she found that the bank would give her marks on the day of withdrawal but would charge about 5 percent to deliver dollars. Truly it had contracted a dollar debt. But it was obliged to pay only marks at the current rate. Since this so called dollar account did not carry interest, the D bank had free use of dollars originally deposited, and charged 5 percent for handing them over to their owner. The same is true of American letters of credit. The bank charge about 5 percent for an advance in dollars. This is also true of American Express checks. A tremendous number of complaints have been made by American tourists who wished to cash their Express checks in dollars and found that they were required to pay as high as 5 percent for a service to which they believed their original payment had already entitled them. The phrase stamped on all Express checks "payable at bankers rates for sight drafts on New York" is a bit of technical verbiage not understood by the average person. In the interest of fairness the situation ought to be fully explained by the agents of the company before selling checks to American Travellers.

The evil things that have been discussed here are not to be regarded as necessarily belonging to the German business community and German business methods. They are the expression rather of the unhappy conditions in which the German economy is functioning. They are evils which would inevitably appear in any country similarly positioned as a Germany afflicted with such international troubles and domestic turmoils. But to explain charitably is not to explain away. And while it is the hope of all reasonable^[14] people that the objectionable features to which we have adverted are merely transitory, the business man must deal with realities as they affect his more limited affairs. He is denied the solace which, as a philosopher, he derives from the contemplation of a future return to normal conditions, which unhappily is too far away for business calculation.

Maurice Walk, American Vice Consul.

Approved:

George D. Hopper, American Consul in Charge.

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