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19 November, 1976

The Secretary,
Department of Foreign Affairs

For the attention of Legal Adviser

With reference to previous correspondence regarding the Schlüter case, I attach herewith a copy of a report by Dr. Suhr, the lawyer acting for the Irish Government in the matter, of the court hearing which took place on 10th November in Hamburg. The report was sent to us through the Embassy lawyer, Dr. Günther. As you are no doubt aware, I have already informed Mr. A.J. Fagan of the Department of Finance by phone of the result of the hearing. I enclose also a translation of Dr. Suhr's report which has been prepared by the Embassy. I think that it would be desirable to have the translation checked by the Department's Translation Section before forwarding copies to Mr. Quigley of the Attorney General's Office and Mr. Fagan.

sale alleged by us or the amount received by him, is

Ambassador

Letter from Dr. Suhr (Hamburg) to Dr. Günther, dated 11 November '7

Re: Irish Ministry of Finance vs. Schlüter

Dear Colleague Dr. Günther,

On November 10, 1976 Dr. Linders submitted his memorandum of November 8, 1976, of which I enclose a carbon copy together with a photocopy.

The court initially adjourned to discuss the objection of lack of security for the costs of the court proceedings. Following deliberations, it was stated, that a decision could not be taken that quickly.

The responsible judge at the district court, Herr Schade, then pointed out that only the statement of the defendant in Paragraph 1, Page 3 of his notes was relevant.

The letter of 3 November¹⁹⁷², which was forwarded by the defendant as Annex A, did not contradict the statement of the plaintiff. In the letter, however, contrary to the statement by the defendant, there had been no mention of the fact that every claim including those made against the defendant himself had been turned down. The letter had been written exclusively on behalf of the Limited Company. Moreover, the plaintiff had already pointed out in his statement of claim that the Limited Company had turned down all demands made upon it. It was not a question of where the funds in question stemmed from and who had been the business partner of the Limited Company.

Decisive was only whether the defendant had personally made a constitutive declaration of admission of guilt. The plaintiff had offered witnesses for this purpose, who were both honorable and highly placed persons. The reference by the defendant to the limitation of the action did not apply; demands resulting from admission of guilt are only limited after thirty years. Nor could the defendant simply contest the amount of the claim that had been made; this must be substantiated and further expenditures listed and proven, should they arise.

The judge then asked whether an agreement could be met or whether all witnesses had to be heard. He called on the defendant to make an adequate comparable offer, whereby the defendant might for instance assume the total costs and in return accept a deduction from the legal claim.

Subsequently, the separate discussions on the plea concerning the lack of security for the proceedings' costs were concluded. A decision is expected to be announced on 19 January 1977. Meanwhile the defendant has been requested to consider and make the said offer.

I would also be grateful if you, in the meantime, would ascertain whether or not the client is prepared to make a comparable offer and what his terms would be.

Signed:
Dr. Suhr

sale of weapons and ammunition less expenses. All statements of the plaintiff to this effect are thus once more explicitly contested.

Otto Schlüter GmbH deals inter alia, with official authorization, with weapons. In late 1969/early 1970 Otto Schlüter GmbH concluded a weapons deal with the Irish firm WELUKS LTD., Sutton House, Sutton, Dublin. Otto Schlüter GmbH has never had any business contacts with the plaintiff. Otto Schlüter GmbH has only received money from the firm of WELUKS. The allegation in the accusation that the money stems from the plaintiff must be contested on the basis of lack of knowledge. Moreover, as far as Otto Schlüter GmbH or the defendant are concerned, it is irrelevant where the firm of WELUKS received their funds from.

All in all, the plaintiff is not actively involved, nor is the defendant passively legally involved. Partners in the weapons deal were WELUKS Ltd. and Otto Schlüter GmbH. Nor did the defendant make an admission of guilt vis a vis the plaintiff, rather the defendant had continually stated to the official, who had called on him that he and Otto Schlüter GmbH had nothing to do with the plaintiff.

As a precautionary measure the defendant also refers to the limitation of the action. His transaction with WELUKS Ltd. took place in 1969/1970. The charge in question arrived at the court on 30 August 1976.

As a precautionary measure the amount of the claim is contested.

Signed
Dr. Linders

Letter from Otto Schlüter GmbH to Department of Finance, dated
3th November 1972

Re: Visit by officers of your Department at our offices on
1 November 1972

Postscript to our letter to Secretary C.H. Murray

Dear Sirs,

We refer herewith to the visit by the esteemed gentlemen of your Department at our offices and would like to reiterate once more in writing, as in our letter of 5 October 1971, that we have received no money from you for the purchase of weapons and munitions, and that you therefore were not our customer. There exist between us no business connections of any kind. For this reason we reject any claims made against us. Even if it were true, that funds were taken from the Irish Exchequer for the purchase of weapons and munitions, this fact is of no concern to us. We concluded a business transaction with a private Irish firm in this context and also received payments from it; in good faith after an Irish Minister recommended this transaction to us.

We regret that we cannot advise you otherwise.

Signed:

Otto Schlüter