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OIFIG AN ARD-AIGHNE

Ard Aighne,

1. The application for security for costs is one which could hardly be contested in this jurisdiction - no doubt our only assets within the jurisdiction of the F.R.G. are our diplomatic properties - and I would suggest that, should the case proceed, we should lodge an acceptable security after consultation with Dr. Suhr.
2. The comments on the letter of 3 November 1972 are in point. However I am not sure whether they are the comments of the judge or of Dr. Suhr.
3. I find it impossible to comment on the settlement suggested by the judge except, initially, by asking the following questions:-
 - (a) Assuming that the judge is suggesting that the defendant pays up all - or most of - our claim, but that all costs have to be met out of the claim, what would be the amount of these costs?
 - (b) Does the term "costs" in German law include expenses? In practical terms, could we, if the case went the whole way to a final decision, have any hope of recovering expenses for -

OIFIG AN ARD-AIGHNE

- 2 -

- (i) the outlay incurred in negotiating with Schluter when he was, under the position now taken up by the judge, merely 'leading us up the garden path';
 - (ii) the costs of Dr. Gunther;
 - (iii) the amount required to bring three witnesses from here and one from the U.S.A. for the trial;
- (c) Can we, in particular, utilize the above factors, set out in paragraph (b) to reduce or wipe out any allowance to be made towards Schluters' costs.
- (d) Since Schluter did not, in his defence, dispute the sale alleged by us or the amount received by him, is it possible to find out if, in fact, he sold the goods for a higher price?
4. I think the offer of the Defendant must be awaited.
5. Finally, I think the advice of Dr. Suhr should be obtained.

D. a.

29th November, 1976.