

COPY

December 13, 1944

My dear Mr. Smith:

Reference is made to a letter dated November 6, 1944 from Mr. F. J. Bailey, Assistant Director, Legislative Reference, of your office, requesting the views of this Department with respect to proposed legislation entitled "A BILL 'To extend certain privileges, exemptions, and immunities to the United Nations Relief and Rehabilitation Administration and to the officers and employees thereof, and for other purposes'".

The observations of this Department are confined to those provisions of the proposed bill which would extend certain tax and customs exemptions, privileges and immunities. In this connection, the bill would extend to the United Nations Relief and Rehabilitation Administration the same privileges, exemptions and immunities accorded foreign governments with respect to customs duties. It would exempt the Administration from income tax and excise taxes on communications, transportation of persons, and transportation of property. In addition, it would relieve the Administration of the duty of collecting income tax at the source on wages paid its employees and such wages would not be subject to employment taxes. The baggage and effects of alien officers and employees of the Administration, or aliens designated by foreign governments to serve as their representatives in or to the Administration, and of the families, suites, and servants of such representatives, officers or employees, would be admitted free of customs duty without entry and free of internal revenue tax. The bill also provides that the baggage and effects of such representatives are to remain inviolate and such representatives are not to be detained nor inconvenienced. The wages, fees, or salary of any employee of the Administration received as compensation for official services would be excluded from income taxation if such employee is not a citizen of the United States and is not a resident of the United States. If the employee is a citizen of the United States, his wages or salary would remain subject to the United States income tax. It is the understanding of this Department that the wages or salary of a resident alien employed by the Administration would likewise be subject to the United States tax.

This Department has no policy objections to these provisions of the proposed bill. However, it would be helpful administratively if the words "Pursuant to regulations prescribed by the Secretary of the Treasury" in section 2 were changed to read "Pursuant to regulations prescribed by the Commissioner of Customs with the approval of the Secretary of the Treasury". Furthermore, inasmuch as entry is ordinarily required in connection with the collection of internal revenue taxes, as well as customs duties, it is suggested that the words "without entry" in the first sentence of section 2 be shifted to follow the words "shall be admitted" so that the requirement of entry would be clearly eliminated for tax as well as duty purposes.

Section 6 (a) provides that no person shall be entitled to claim the benefits of the bill unless he shall have been duly notified by the government of which he is a representative or by the United Nations Relief and Rehabilitation Administration to the Secretary of State and accepted as such by him. By limiting notice and acceptance to the case of a representative, this provision is ambiguous with respect to officers, and employees, and members of their families, suites, and servants. Under this same section, the customs authorities would be compelled to subject to the ordinary customs provisions for entry and payment of duties and import taxes, the baggage and effects accompanying any person who had not been accepted by the Secretary of State at the time of his arrival in this country. Because of the possibilities of delay in the course of formal notification and acceptance, this may create some embarrassment which might be avoided if provision were made for recognition of prospective representatives, officers, or employees. The following language is suggested to avoid these difficulties in section 6 (a):

SEC. 6 (a). The benefits of this Act shall not be granted to a representative, officer, or employee, or to his family, suite, and servants, unless the representative, officer, or employee has been notified, in the case of a representative, by the Government which he represents, or, in the case of an officer or employee, by the United Nations Relief and Rehabilitation Administration, to the Secretary of State and accepted by him, or unless such representative, officer, or employee has been

- 3 -

designated by the Secretary of State prior to formal notification and acceptance as a prospective representative, officer, or employee of the United Nations Relief and Rehabilitation Administration.

Sincerely yours,

/s/ Herbert E. Gaston
Acting Secretary of the Treasury

Honorable Harold D. Smith
Director, Bureau of the Budget
Washington, D. C.