

ad - 0D/S
15 April 1955

OGC HAS REVIEWED.

MEMORANDUM FOR: Deputy Director (Support)

SUBJECT : Use of Foreign Ships to Transport Effects of Agency Personnel

REFERENCE : Attached Draft Cable to Senior Representative, Okinawa

1. Paragraph 1 of the reference cable states:

"Authority granted to return via foreign flag privately owned automobiles of Agency employees under [redacted] cover provided certification submitted to CSU Finance Office that no U. S. flag ship available with reasonable time (such as 30 days) before or after EDT owner."

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2. Section 901 of the Merchant Marine Act of 1936 provides:

"Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under a foreign flag; Provided that the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor."

3. The Department of State, in interpreting this Section, has issued Foreign Service Circular No. 81, dated 7 May 1954, which states with respect to the shipment of personal effects:

"When direct American ships and direct foreign ships operate between the port nearest to the place where the official travel originates and the port nearest to the authorized destination, shipment of effects shall be made on an American ship, regardless of waiting time."

Under this interpretation, paragraph 1 of the reference cable would not be authorized by the Department of State.

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4. This Agency has stated the following general policy in [redacted]

"Foreign Service Travel Regulations should be consulted for clarification of all problems involving personal travel." Foreign Service Circular No. 61 is not a Department of State "regulation," but is a statement of that Department's policy which internally has the same effect. A representative of this office consulted a State Department representative who was instrumental in originating Foreign Service Circular No. 61 and was advised that the cited provision of that Section was State Department's policy interpretation of the statute and the legislative intent. The State Department also stated that the Circular had the tacit clearance of their General Accounting Office site auditor although no formal request for an opinion on the subject had been submitted to the Comptroller General.

5. Since no formal ruling on this subject has been made by the Comptroller General, it is at this time a matter of policy determination whether this Agency should follow the State Department's informal interpretation or whether the reference cable, as written, should be released. However, if existing Agency regulations are to be followed, the proposed cable would be in conflict. The Agency, of course, could modify its policy, and your approval of this cable would have this effect.

6. In the absence of operational considerations, it would seem highly desirable as a matter of consistency with State Department policies that the Agency adhere to a policy of having the referenced Foreign Service Circular 61 be considered binding on Agency personnel.

LAWRENCE R. HOUSTON
General Counsel

Att.

OGC/JSW:mmm

APPROVED:


L. E. WHITE
Deputy Director (Support)

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