

No. 22

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**NETHERLANDS AND MEXICO**

**Exchange of Notes regarding compensation in respect of expropriated petroleum industrial property. Mexico, 7 February 1946. Came into force on 7 February 1946, by signature**

*English and Spanish official texts communicated by the Minister for Foreign Affairs of the Netherlands. The registration took place on 25 April 1947.*

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**PAYS-BAS ET MEXIQUE**

**Echange de notes concernant le versement d'indemnités pour l'expropriation de biens de l'industrie pétrolière. Mexico, le 7 février 1946. Entré en vigueur le 7 février 1946, par signature**

*Textes officiels anglais et espagnol communiqués par le ministre des Affaires étrangères des Pays-Bas. L'enregistrement a eu lieu le 25 avril 1947.*

No. 22. EXCHANGE OF NOTES DATED FEBRUARY 7, 1946 BETWEEN THE MINISTER OF NETHERLANDS IN MEXICO AND THE MINISTER FOR FOREIGN AFFAIRS OF MEXICO REGARDING COMPENSATION IN RESPECT OF EXPROPRIATED PETROLEUM INDUSTRIAL PROPERTY.

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I

Gezantschap der Nederlanden

Mexico, February 7th, 1946

Your Excellency,

With reference to the conversations that have taken place between us regarding the compensation to be paid, through the Government of the United Kingdom, to Netherlands subjects affected, in respect of certain petroleum industrial properties in the United States of Mexico by acts of expropriation or otherwise in their properties, rights and interests, subsequent to March 17th, 1938 by the Government of Mexico, I have the honour to propose that an agreement should be entered into by our respective Governments in the following terms: —

1. Each of the two Governments will appoint, within the thirty days following the date of this note, an expert whose duty it shall be to undertake a final estimate of the rights and interests of Netherlands subjects in and relative to such petroleum industrial properties in Mexico affected by acts of the Government of Mexico subsequent to March 17th, 1938, as may be determined by mutual agreement between the two Governments.

2. In order that it may be possible to determine the value of the said rights and interests of Netherlands subjects, the experts appointed in accordance with the preceding paragraph, shall proceed to the valuation of the properties, rights and interests in Mexico with respect to which the said rights and interests of Netherlands subjects exist.

3. The experts, in accordance with the procedure and in the manner set out in this Agreement, shall determine an adequate valuation of the said properties, rights and interests basing this upon their value at the time when they were affected by acts of the Government of Mexico. In arriving at this valuation the experts shall ignore considerations of a technical character and shall proceed on a basis of justice and equity.

4. The experts shall also fix an equitable interest which shall be calculated on the valuation arrived at in accordance with the preceding paragraphs; this interest shall accrue as from the date fixed by the experts.

5. (a) The amount determined under the preceding paragraph shall be added to the amount of the valuation determined under paragraphs 2 and 3.

(b) All amounts determined by the experts, under this agreement, shall be assessed in United States dollars.

6. The experts shall hold their first meeting in Mexico City as soon as possible, but in any event within six months following the date of the appointment last made by either Government. The later meetings and other activities of the experts shall take place, within the time-limits laid down in this Agreement, on such dates and in such places in Mexican territory as the experts themselves determine.

7. Each of the Governments shall designate such assistants as the respective experts may require for the better accomplishment of their task.

8. The expenses of salaries, maintenance, transportation and other incidental expenses of each expert and his assistants, shall be met by the Government which has appointed them. The joint expenses incurred during the proceedings of the experts shall be shared equally between the two Governments.

9. The experts shall at all times closely collaborate and cooperate in their valuation proceedings. They may obtain directly such data and evidence as they may consider pertinent to forming their opinion, or receive them from interested persons and institutions and from the Governments of Mexico and of the Netherlands.

10. The experts shall have free access to all records in the possession of the Government of Mexico as well as to oil fields, lands, installations, offices, buildings and any other properties whatsoever involved directly or indirectly in the valuation. Netherland's expert shall, at the request of the Mexican expert, request the interested persons and institutions to furnish any pertinent evidence relevant to evidence already furnished by them. Any refusal on their part to comply with these requests shall bring into application the relevant provision of paragraph 13.

11. As soon as one expert obtains or learns of any pertinent data, reports or evidence, he will inform the other. Either expert may request from the other the furnishing of any data, reports or evidence which for any reason is available only to the other.

12. Within a period of three months from the date of their first meeting, the experts shall obtain and receive all data, reports and evidence; nevertheless, a further period of one month shall be allowed for the presentation, by either expert, of additional data, reports and evidence completing, clarifying or rectifying the material obtained or received in the said period of three months.

13. The experts shall examine and appraise all proofs obtained directly by, or that may be submitted to them. The experts shall not take into account any specific proofs rendered "ex parte" when the person or institution furnishing them refuses to furnish pertinent complementary evidence requested by the Netherlands expert, in accordance with the terms of paragraph 10 above.

14. The experts shall complete their work within one year from the date of this note. If they are in agreement regarding the amount of the valuation, they shall render a joint report to the two Governments.

15. Both Governments agree to accept as final the joint report of the experts.

16. If, within the period indicated in paragraph 14, the experts are unable to reach agreement as to the whole or part of the matters submitted to them, each one shall, within an additional period of one month, submit, to his Government a separate report on any matters in respect of which agreement has not been reached.

17. Within a month of the receipt of the report or reports of the experts, the two Governments shall initiate diplomatic negotiations with a view to fix, in the case of agreement between the experts to which paragraph 15 refers, the sum to be paid, on the basis of their joint report, to those Netherlands subjects who, by such methods as the two Governments may determine, prove their participation as shareholders, at the time of publication of this note, in the properties referred to in paragraph one thereof. The same shall be applied in the case of disagreement between the experts to which paragraph 16 refers, on the understanding that the negotiations shall also be directed to the settlement of any points of disagreement between the reports of the two experts.

18. The two Governments shall agree without delay upon the methods and time-limits for payment, through the Government of the United Kingdom, of the compensation and interest due to Netherlands subjects, on the understanding that this payment shall be made in United States currency. The said interest shall run until total payment of the compensation, which, however, shall be completed within a period not exceeding seven years as from the date on which the two Governments shall have reached an agreement regarding the compensatory procedure to be followed.

19. Nothing contained in this note shall be regarded as a precedent, or be invoked by either of the two Governments in the settlement between them of any future difficulty, conflict, controversy or arbitration. The present provisions shall be considered as singular and exceptional, appropriate solely to this case, and motivated by the character of the problem itself.

20. In the event of either Government considering that, owing to facts arising out of the war, it will be impossible for them to fulfil, within the time-limits set out in any paragraph of the Agreement, one or any of their obligations stated in that paragraph, they shall be at liberty to request from the other Government that any of the said time-limits should be extended for a reasonable period. The other Government shall consider any such request sympathetically. If the two Governments agree upon the extension of one or any time-limit, the remaining provisions of this note and the validity of the present Agreement shall not be affected thereby.

21. If, at the expiration of three months from the date of this agreement, a joint report has not been made by the experts appointed in accordance with the terms of the note of to-day, exchanged between the Government of the Netherlands and the Government of Mexico providing for the valuation of certain claims, this agreement shall be revoked and the rights and liabilities of the respective Governments shall be the same as if this agreement had not been made.

If the Government of Mexico are prepared to accept the foregoing proposals, I have the honour to propose that this note and Your Excellency's reply thereto shall constitute formal Agreement between the two Governments, which shall take effect immediately.

KIELSTRA

His Excellency  
Dr. Francisco Castillo Nájera,  
Minister for Foreign Affairs,  
Mexico, D. F.

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## II

### SPANISH TEXT — TEXTE ESPAGNOL

Secretaría de Relaciones Exteriores  
Estados Unidos Mexicanos.

México, 7 de febrero de 1946

Señor Ministro:

Tengo la honra de acusar recibo a Vuestra Excelencia de su muy atenta nota del día de hoy que — traducida al español— a continuación transcribo:

### TRANSLATION — TRADUCTION

Ministry of Foreign Affairs  
United States of Mexico

Mexico, 7 February 1946

Your Excellency,

I have the honour to acknowledge the receipt of your esteemed note of to-day's which—translated into Spanish—I transcribe as follows:

(See note No. I)

by means of an exchange of notes which took place today, regarding the procedure to be followed in order to establish the compensation due to Netherlands interests on account of the acts of expropriation relative to the petroleum industry in Mexico.

In view of the conclusion of a similar Agreement between the Government of Mexico and His Majesty's Government in the United Kingdom and of the close relationship uniting British and Netherlands interests in the petroleum industry in Mexico, which has been recognised in the Agreement referred to above, Her Majesty's Government in the Netherlands wish to designate a single expert in conjunction with the British Government. Should Your Excellency's Government agree to this nomination of a single expert and, on their part, also designate a single expert it is felt that the procedure laid down in the Agreement will thereby be greatly simplified.

KIELSTRA

His Excellency,  
Dr. Francisco Castillo Nájera,  
Minister for Foreign Affairs,  
Mexico, D. F.

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#### IV

SPANISH TEXT — TEXTE ESPAGNOL

TRANSLATION — TRADUCTION

Secretaría de Relaciones Exteriores  
Estados Unidos Mexicanos  
México

Department of Foreign Affairs  
United States of Mexico  
Mexico

México, 7 de febrero de 1946

Mexico, 7 February 1946

Señor Ministro:

Your Excellency,

Me es grato acusar recibo de su muy atenta nota del día de hoy, en la que, con relación al canje de notas celebrado entre Vuestra Excelencia y el suscrito, sobre el procedimiento que deberá seguirse para compensar a los súbditos holandeses afectados en sus propiedades como consecuencia del Decreto de 18 de marzo de 1938 y en vista de que se ha celebrado un arreglo similar entre el Gobierno de México y el de la Gran Bretaña, así como de la estrecha relación que une a los intereses holan-

I have pleasure in acknowledging the receipt of your note of today's date, in which, with reference to the exchange of notes that has taken place between Your Excellency and the undersigned, regarding the procedure to be followed in order to compensate Netherlands subjects whose property is affected as a result of the Decree of 18 March 1938 and in view of the fact that a similar arrangement has taken place between the Government of Mexico and that of Great Britain, and

deses y británicos en este asunto, Vuestra Excelencia propone que su Gobierno y el de la Gran Bretaña nombren conjuntamente un solo perito para los efectos de emprender el avalúo definitivo de los derechos e intereses referidos, en la inteligencia de que el Gobierno de México designará, por su parte, un solo perito.

Sobre el particular, me es grato manifestar a Vuestra Excelencia que dado que el Gobierno de la Gran Bretaña ha hecho una proposición similar al de México y teniendo en cuenta que, en esta forma, se simplificará el procedimiento, mi Gobierno no tiene inconveniente en aceptar la proposición anterior.

Reitero a Vuestra Excelencia las seguridades de mi más alta y distinguida consideración.

F. CASTILLO NÁJERA

Excelentísimo señor  
Profesor Dr. J. C. Kielstra,  
Ministro de Holanda,  
Ciudad.

in view of the close relationship between Netherlands and British interests in this matter, Your Excellency proposes that your Government and that of Great Britain should jointly appoint a single expert to undertake a definite valuation of the rights and interests referred to, with the understanding that the Government of Mexico will, on its side, appoint a single expert.

On this point I have pleasure in informing Your Excellency that, since the Government of Great Britain has made a similar proposal to the Government of Mexico, and since the procedure will thereby be simplified, my Government has no difficulty in accepting the aforesaid proposal.

I have the honour to be, etc.

F. CASTILLO NÁJERA

His Excellency,  
Professor Dr. J. C. Kielstra,  
Minister of the Netherlands,  
City.

V

SPANISH TEXT — TEXTE ESPAGNOL<sup>1</sup>

Secretaría de Relaciones Exteriores.  
Estados Unidos Mexicanos  
México

México, 7 de febrero de 1946

Señor Ministro:

En vista del propósito del Gobierno de los Países Bajos y del Gobierno de México, tal como se desprende de las conversaciones que he celebrado con Vuestra Excelencia, de que el problema surgió como consecuencia del Decreto

<sup>1</sup> See note No. VI for English text.

2. — Los expertos, como resultado del estudio y valorización de las reclamaciones y contrarreclamaciones, a que se refiere el párrafo 1, determinarán las compensaciones que deberán hacerse y, en caso de que resultare algún saldo, fijarán su forma de pago.

3. — El dictamen, que de común acuerdo rindan los expertos, será obligatorio tanto para el Gobierno de México como para las compañías comprendidas en el mismo punto 1.

4. — El dictamen conjunto de los expertos deberá quedar concluído, a más tardar, dentro de un período de tres meses a partir de la fecha de la presente nota. Si, a la expiración de un plazo de tres meses, contado a partir de esta fecha, los expertos no han rendido un dictamen conjunto, todos los arreglos hechos de acuerdo con los términos de esta nota se darán por extinguidos y los derechos y obligaciones del Gobierno de México y de las compañías serán los mismos que si no se hubiese celebrado ninguno de dichos arreglos.

5. — El dictamen de los expertos a que se refiere la presente nota queda sujeto a la condición suspensiva y, por tanto, no surtirá sus efectos sino hasta que se llegue a un acuerdo sobre la valorización de los bienes y derechos de la Compañía Mexicana de Petróleo "El Aguila", S.A., de la Compañía Naviera "San Cristóbal", S.A. y de la Compañía Naviera "San Ricardo", S.A., en los términos del Convenio celebrado el día de hoy entre el Gobierno de los Estados Unidos Mexicanos y los Gobiernos de los Países Bajos y del Reino Unido de la Gran Bretaña, relativo a la valorización de ciertas propiedades petroleras en los Estados Unidos Mexicanos.

6 — El Gobierno de México y las compañías resolverán en el Convenio todos los problemas de procedimiento que se presenten con motivo del mismo.

Aprovecho la oportunidad para renovar a Vuestra Excelencia el testimonio de mi más alta y distinguida consideración.

F. CASTILLO NÁJERA

Excelentísimo señor Profesor Dr. J. C. Kielstra,  
Enviado Extraordinario y Ministro Plenipotenciario de Holanda,  
Ciudad.

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VI

Gezantschap der Nederlanden

Mexico, February 7th, 1946

Your Excellency,

I have the honour to acknowledge the receipt of Your Excellency's note of February 7th, 1946 which reads, in translation, as follows:



In view of the proposal of the Government of the Netherlands and the Government of Mexico, resulting from the conversations which I have held with Your Excellency, that the problem arising from the expropriation decree of March 18th, 1938, insofar as it affects the properties of Netherlands subjects in the petroleum industry of the United States of Mexico, should be wholly and definitely settled in a spirit of open friendship and mutual understanding, it is hereby agreed that the Mexican Government shall conclude, with the Companies mentioned below, an agreement on the following fundamental bases:

- One.* The Cía Mexicana de Petróleo "El Aguila", S.A.  
Cía. Naviera "San Cristóbal", S.A.  
Cía. Naviera "San Ricardo", S.A.  
Cía. de Terrenos del Golfo, S.C.P.A.  
Cía. Consolidada de Fincas Urbanas, S.C.P.A.  
Cía. Agrícola y Colonizadora Veracruzana, S.A.  
Cía. de Comercio, Inversiones e Industria, S.A.  
Cía. Petrolera de "Palma Sola-Furbero", S.A.  
United Oils Production Co., S.A.  
P. J. Jonker, S. en C., Sucrs.  
Rafael Ortega, S. en C., Sucr.

shall jointly appoint a single expert who, together with the expert appointed by the Government of Mexico, shall examine and value:

(a) All the claims of the above Companies against the Government of Mexico and its Departments, including the Mexican National Railways, for sums owed or that may be owed to the Companies prior to March 18th, 1938 inclusive;

(b) The properties, rights, and interests affected by acts of the Mexican Government subsequent to March 18th, 1938, of the following:

- Cía. de Terrenos del Golfo, S.C.P.A.  
Cía. Consolidada de Fincas Urbanas, S.C.P.A.  
Cía. Agrícola y Colonizadora Veracruzana, S.A.  
Cía. de Comercio, Inversiones e Industria, S.A.  
United Oils Production Co., S.A.  
Cía. Petrolera de "Palma Sola-Furbero", S.A.  
P. J. Jonker, S. en C., Sucrs.  
Rafael Ortega, S. en C., Sucr.;

(c) All obligations or claims which the Mexican Government have or may have the right to exact from the Companies mentioned at the beginning of this paragraph, including taxes, unpaid fiscal dues, and all claims of a private character against them, arising from their operations in Mexico, inclusive of labour claims which have been or may be determined to be valid by the Mexican Tribunals.

*Two.* The experts, as a result of the examination and valuation of the claims and counter-claims referred to in paragraph one, shall determine the compensation to be paid and, in the event of a balance, shall fix the form of payment.

*Three.* The joint report of the experts shall be binding on the Government of Mexico and on the Companies mentioned in paragraph one.

*Four.* The experts shall make their joint report not later than three months from the date of this note. If, at the end of three months from this date, the experts have not made a joint report all agreements made under the terms of this note shall come to an end and the rights and liabilities of the Government of Mexico and of the Companies shall be the same as if none of these agreements had been made.

*Five.* The report of the experts referred to in the present note shall remain in suspense and shall not come into effect until agreement is reached on the value of the properties and rights of the Cía. Mexicana de Petróleo "El Aguila", S.A., the Cía. Naviera "San Cristóbal", S.A. and the Cía. Naviera "San Ricardo", S.A., in accordance with the agreement of today between the Government of the United States of Mexico and the Governments of the United Kingdom and of the Netherlands providing for the valuation of certain petroleum properties in the United States of Mexico.

*Six.* The Government of Mexico and the Companies shall settle in the agreement all questions of procedure which may arise in connection therewith.

I have the honour of informing Your Excellency that the Netherlands Government have taken due note of the above arrangement.

I avail myself of this occasion to renew to Your Excellency the assurance of my highest consideration.

KIELSTRA

His Excellency  
Don Francisco Castillo Nájera,  
Minister for Foreign Affairs,  
México, D. F.