

No. 23

NETHERLANDS AND UNITED STATES OF AMERICA

Exchange of Notes regarding the release of Netherlands assets in the United States of America. 's-Gravenhage, 22 January and 20 March 1946, and Washington, 11 February 1946. Came into force on 13 February 1946 (see Note No. II, page 44)

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

PAYS-BAS ET ETATS-UNIS D'AMERIQUE

Echange de notes relatif au déblocage des avoirs néerlandais aux Etats-Unis d'Amérique. La Haye, 22 janvier et 20 mars 1946, et Washington, 11 février 1946. Entré en vigueur le 13 février 1946 (voir note No II, page 44)

Texte officiel anglais communiqué par le ministre des Affaires étrangères des Pays-Bas. L'enregistrement a eu lieu le 25 avril 1947.

No. 23. EXCHANGE OF NOTES REGARDING THE RELEASE OF NETHERLANDS ASSETS IN THE UNITED STATES OF AMERICA. 'S-GRAVENHAGE, 22 JANUARY AND 20 MARCH 1946, AND WASHINGTON, 11 FEBRUARY 1946

I

MINISTERIE VAN FINANCIEN

's-Gravenhage, January 22nd, 1946

The Hon. Fred M. Vinson,
Secretary of the Treasury,
Washington, D.C.

My dear Mr. Secretary,

In recent discussions held between representatives of my Department and members of the United States Treasury, it was indicated that your Department is now prepared to institute a procedure for the release of Netherlands assets now blocked under Executive Order No. 8389 and the U.S. Trading with the Enemy Act of 1917 as amended.

I am grateful for the prompt action of the United States Government in blocking Netherlands assets on 10th May 1940, and the ensuing practice of foreign funds control, which has fitted remarkably well in the principles and aims of the Joint Declaration of 5th January 1943, of which, as you will recall, the Netherlands Government, then in London, was one of the originators, and the terms of Resolution VI of the United Nations Monetary and Financial Conference, held in Bretton Woods. The principles underlying this resolution have since been given effect in the Netherlands legislation now in force.

I have studied general license No. 95 of your Department which it has been suggested might be made applicable to the Netherlands. After consultation with my colleagues I confirm in this connection my agreement on the following points:

1. The competent Netherlands authorities will assume the responsibility for carrying out the procedure of certification provided for by the license. No property will be certified until the Netherlands Government has ascertained by

appropriate investigation, that the property is not excluded from the benefits of the License. It is understood that operating problems which may arise under the arrangement set out in this letter may from time to time be reviewed by our two Departments with a view to arriving at mutually satisfactory solutions and ensuring the smooth operation of the procedure. Moreover in regard to accounts which may from time to time be specifically indicated by the United States Treasury, consultations with your Department will be held prior to making the certification provided for in the proposed general license.

2. It is understood that within the framework of the general license no certifications will be issued which:

a. would facilitate the completion of transactions which might further the interests of an enemy or of persons acting upon behalf of an enemy.

b. would change the status quo of blocked property in the United States in which an enemy has an interest, direct or indirect. If property in which there is an enemy interest is transformed under the license inadvertently or by mistake, your Department will be consulted and, at its request, appropriate measures will be taken to ensure that such property or its equivalent will be restored to the account in which it was held before being transferred, or to such other accounts as you may designate, but only to the extent to which such property or its equivalent may be found among the assets of the first acquirer of the original owner.

3. As to the property of any partnership, association, corporation or any other organization, established in accordance with the laws of the Netherlands, which, by reason of the interests of persons not resident in the Netherlands, is also a national of another country designated in the freezing order, within the meaning of the general license No. 95, no certification will be made until full assurances have first been obtained from the Government of the other country to the specific effect that no national of Germany, Japan, Bulgaria, Hungary or Rumania is involved in the ownership or control of such interests. For reasons of simplification, however, the Netherlands authorities may, on their own responsibility, certify property of any organization in which the proportion of such interests is less than twenty-five percent.

With respect to any property not covered by the preceding paragraph in which any other country specified in general license No. 95 or any national thereof has an interest my Government will not certify until full assurances have been obtained from the other Government that such interest itself is entitled to certification under the license. It is understood, however, that it will not be necessary to obtain such assurances where the value of the property involved is less than \$1000.

4. Our two Departments will make joint efforts with a view of investigating and controlling all German and other enemy assets both in the United States and in the Netherlands in order to deprive war criminals and potential leaders of the enemy underground of means of existing and of jeopardizing the peace. In particular, our two Departments will take all steps necessary to prevent the financial facilities which our two countries may grant each other from being utilized by any person subject to Netherlands or American jurisdiction in such manner as might allow enemies or their agents to conceal assets in the United States or in the Netherlands. Our two Departments will exchange all information required to carry out this task, and in particular the Netherlands Government, which has already undertaken a vigorous program to eliminate economic and financial enemy interests in the Netherlands, will keep yours fully informed with regard to property held in the United States under a Netherlands name when it has reason to believe that there is any enemy interest, direct or indirect, in such property. My Government will likewise furnish yours with all information concerning Netherlands institutions which hold in the United States property in which an enemy might have an interest. It is of course understood that your Department will make all information on this subject available to the Netherlands authorities concerned.

5. As a result of the protection accorded to Netherlands assets, and of other circumstance which arose during the war, American creditors have been temporarily deprived of certain means of action which normally would have been open to them to protect their interests.

The Netherlands Government proposes, in accordance with its longstanding practice, to allow debtors in the Netherlands to settle their indebtedness to United States Government agencies, individuals or firms and to provide within the limits of its resources the foreign exchange necessary to that end.

6. Concerning the transfer of funds from the Netherlands to the United States it is the intention of my Government to liberalize control restrictions to the fullest extent that the foreign exchange position of each part of the Kingdom will permit. In this connection the competent Netherlands authorities will authorize all payments for the purpose of duly authorized current business or commercial transactions including balances emanating from said sources which have accrued during the war.

The competent Netherlands authorities, moreover, will examine carefully requests for transfers of capital from the Netherlands to the United States when

transfers of that type might serve useful economic or commercial purpose, and where transfers of small amounts are of substantial importance to the interested parties. They will examine in the same spirit requests for transfers of funds to the United States filed by American nationals residing in the Netherlands.

Your Government will be aware that immediately upon the liberation of the Netherlands, the measures of control over foreign property instituted by the enemy were abrogated. Custodians over foreign property are now acting only if and in so far as the original owners are incapable of acting themselves. An administrative procedure is now established whereby such absent owners can at their request be reinstated in their rights.

My Government has not imposed restrictions on the assets of nationals of the United States for the purpose of controlling property in which an enemy interest might exist, except in particular cases in which my Government has reason to believe that control is necessary to prevent the transfer of property in which any enemy has an interest or to avoid the completion of transactions which might be directly or indirectly to the benefit of any enemy.

Property in the Netherlands of nationals of the United States will be treated on as favourable a basis as applied now or hereafter to nationals of any other country.

Accept, my dear Mr. Secretary, the expression of my high esteem.

P. LIEFTINCK
Minister of Finance

II

THE SECRETARY OF THE TREASURY WASHINGTON

Washington, February 11, 1946

My dear Mr. Minister,

I am pleased to have received the assurances contained in your letter of January 22, 1946, concerning the general licence which representatives of our two Departments have been discussing. In view of the statements contained in your letter, I am happy to inform you that on February 13, 1946, by amendment

to General License No. 95, the Netherlands will be added to the countries covered by that licence. Enclosed for your information are a copy of the license and of the amendment thereto.

Sincerely,

Fred M. VINSON
Secretary of the Treasury

His Excellency Pieter Liefstinck
Minister of Finance
Ministry of Finance
The Hague, The Netherlands
Enclosures

Treasury Department
Foreign Funds Control
December 7, 1945

GENERAL LICENSE No. 94
UNDER EXECUTIVE ORDER No. 8389, AS AMENDED, EXECUTIVE
ORDER No. 9193, AS AMENDED, SECTION 5 (b) OF THE TRADING
WITH THE ENEMY ACT, AS AMENDED BY THE FIRST WAR
POWERS ACT, 1941, RELATING TO FOREIGN FUNDS CONTROL

Certain Countries Generally Licensed

1. *Blocked countries generally licensed subject to certain conditions.* A general license is hereby granted licensing all blocked countries and nationals thereof (excepting the following countries and nationals thereof: 1. Germany and Japan, 2. Portugal, Spain, Sweden, Switzerland, Liechtenstein and Tangier) to be regarded as if such countries were not foreign countries designated in the Order, *provided that*

a. any property in which on the effective date hereof any of the following (including countries licensed hereby) or person therein; or 2. any other partnership, association, corporation, or other organization, which was a national of a blocked country (including countries licensed hereby) by reason of the interest of any such country or person therein; or

b. any income from such property accruing on or after the effective date hereof

shall continue to be regarded as property in which a blocked country or national thereof has an interest and no payment, transfer, or withdrawal or other dealing with respect to such property shall be effected under, or be deemed to be authorized by, this paragraph.

2. *Transactions under other licenses authorized without regard to certain restrictions.* With respect to property subject to the proviso of paragraph 1, any transaction not involving any excepted country or national thereof which is authorized under any license (other than General Licenses Nos. 1, 1A, 4, 27, 30A, 58 and 75 or any other license to the extent that it merely authorizes transfers between blocked accounts of the same person or changes in the form of property held in a blocked account) may be effected without regard to any terms of such license relating to the method of effecting such transaction.

3. *Certain other transactions authorized.* This license also authorizes any transaction which could be effected under General License No. 53 if the countries licensed hereby were members of the generally licensed trade area, provided that this paragraph shall not be deemed to authorize any payment, transfer, or withdrawal, or other dealing, with respect to any property which is subject to the proviso of paragraph 1.

4. *Application of license to nationals of countries licensed hereby who are also nationals of excepted countries.* Paragraphs 1 and 2 shall not apply with respect to any national of a country licensed hereby who is also a national of any excepted country, *provided, however*, that for the purpose only of this license the following shall be deemed not be nationals of an excepted country:

a. Any individual residing in a country licensed hereby, except any citizen or subject of Germany or Japan who at any time on or since December 7, 1941 has been within the territory of either such country or within any other territory while it was designated as "enemy territory" under General Ruling No. 11;

b. Any partnership, association, corporation, or other organization, organized under the laws of a country licensed hereby, unless it is a national of Germany or Japan.

5. *Definition.* As used in this license, the term "excepted country" shall mean any country excepted in paragraph 1.

6. *Effective date.* The effective date of this general license shall be December 7, 1945, except that it shall be October 5, 1945 as to France and November 20, 1945 as to Belgium.

Fred M. VINSON.
Secretary of the Treasury

Treasury Department
Foreign Funds Control
December 29, 1945

GENERAL LICENSE No. 95
UNDER EXECUTIVE ORDER No. 8389, AS AMENDED, EXECUTIVE
ORDER No. 9193, AS AMENDED, SECTION 5 (b) OF THE TRADING
WITH THE ENEMY ACT, AS AMENDED BY THE FIRST WAR
POWERS ACT, 1941, RELATING TO FOREIGN FUNDS CONTROL

Property certified by Governments of specified countries

1. *Certification by governments of countries specified herein.* Whenever a designated agent of the government of any country specified therein has certified in writing that no foreign country designated in the Order or national thereof, other than a country specified herein or national thereof, has at any time between the effective date of the Order and the date of certification had any interest in any property subject to the proviso of paragraph 1 of General License No. 94, the property so certified is hereby licensed to be regarded as property in which no blocked country or national thereof has or has had any interest.

2. *Waiver of Section 2A of the Order and General Ruling No. 5.* The provisions of Section 2A of the Order and of General Ruling No. 5 are waived with respect to any security to which a certification under the preceding paragraph is attached.

3. *Application of license to certain nationals of countries specified herein.* This license shall not apply with respect to any national of a country specified herein who is a national of another foreign country designated in the Order and not specified herein, *provided, however,* that for the purpose only of this license the following shall be deemed nationals only of a country specified herein:

a. Any individual residing in a country specified herein, *except* any citizen or subject of Germany or Japan who at any time on or since December 7, 1941 has been within the territory of either such country or within any other territory while it was designated as "enemy territory" under General Ruling No. 11;

b. Any partnership, association, corporation, or other organization, organized under the laws of a country specified herein, unless it is a national of Germany, Japan, Bulgaria, Hungary, or Rumania.

4. *Definitions.* As used in this license,

a. the term "country specified herein" means the following:

1. France, effective October 5, 1945;
2. Belgium, effective November 20, 1945;
3. Norway, effective December 29, 1945;
4. Finland, effective December 29, 1945;

and each country specified herein shall be deemed to include any colony or other territory subject to its jurisdiction.

b. the term "foreign country designated in the Order" shall be deemed to include countries licensed by General License No. 94.

Fred M. VINSON,
Secretary of the Treasury

Treasury Department
Foreign Funds Control
February 13, 1946

AMENDMENT TO GENERAL LICENSE No. 95
UNDER EXECUTIVE ORDER No. 8389, AS AMENDED, EXECUTIVE
ORDER No. 9193, AS AMENDED, SECTION 5 (*b*) OF THE TRADING
WITH THE ENEMY ACT, AS AMENDED BY THE FIRST WAR
POWERS ACT, 1941, RELATING TO FOREIGN FUNDS CONTROL

Paragraph 4, *a*, of General License No. 95 is hereby amended to read as follows:

a. the term "country specified herein" means the following:

1. France, effective October 5, 1945;
2. Belgium, effective November 20, 1945;
3. Norway, effective December 29, 1945;
4. Finland, effective December 29, 1945;
5. The Netherlands, effective February 13, 1946;

and each country specified herein shall be deemed to include any colony or other territory subject to its jurisdiction.

Fred M. VINSON,
Secretary of the Treasury

III

MINISTERIE VAN FINANCIËN

's-Gravenhage, March 20, 1946

The Honorable Fred M. Vinson,
Secretary of the Treasury,
Washington, D.C.

My dear Mr. Secretary,

The provisions of the letter of assurances of January 22, 1946 will apply with respect to securities issued in the United States which are located in the Netherlands whenever such securities are made the subject of any certification under the proposed license. Moreover, the mutual principles and objectives referred to in the letter are being applied to American securities in the Netherlands, as the Netherlands Government is investigating the ownership of all such securities. This is done in accordance with the provisions of the Royal Decree of November 16, 1945, F 272, which sets up a Registration Bureau for all securities located in the Netherlands. A certification will be affixed to each security issued in the United States which, in the course of the procedure mentioned above, does not appear to be excluded from the benefits of the license while other such securities will be appropriately segregated until the question of their final disposition is resolved. In accordance with the provisions of the letter of assurances the Treasury Department will be informed of all securities so segregated.

Accept, my dear Mr. Secretary, the expression of my high esteem,

P. LIEFTINCK
Minister of Finance