

**UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND
and
LUXEMBOURG**

**Agreement relating to money and property situated in Luxembourg and the United Kingdom, which have been subjected to special measures in consequence of the enemy occupation of Luxembourg (with Exchange of Notes).
Signed at London, on 11 December 1946**

English and French official texts communicated by the Permanent United Kingdom Representative to the United Nations. The registration took place on 26 November 1947.

**ROYAUME-UNI DE GRANDE-BRETAGNE ET
D'IRLANDE DU NORD
et
LUXEMBOURG**

**Accord concernant les biens, droits et intérêts situés au Luxembourg et dans le Royaume-Uni qui ont été soumis à des mesures spéciales en raison de l'occupation du Luxembourg par l'ennemi (avec échange de notes).
Signé à Londres, le 11 décembre 1946**

Textes officiels anglais et français communiqués par le représentant permanent du Royaume-Uni auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 26 novembre 1947.

No. 155. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE GRAND DUCAL GOVERNMENT OF LUXEMBOURG RELATING TO MONEY AND PROPERTY SITUATED IN LUXEMBOURG AND THE UNITED KINGDOM WHICH HAVE BEEN SUBJECTED TO SPECIAL MEASURES IN CONSEQUENCE OF THE ENEMY OCCUPATION OF LUXEMBOURG. SIGNED AT LONDON, ON 11 DECEMBER 1946

The Government of the United Kingdom of Great Britain and Northern Ireland and the Grand Ducal Government of Luxembourg,

Desiring to conclude an Agreement to facilitate the restoration of money and property situated in Luxembourg and the United Kingdom, belonging to persons who are and have been resident in or carrying on business in the United Kingdom and Luxembourg respectively, and which have been the subject of special measures in consequence of the enemy occupation of Luxembourg, desiring also to re-establish normal financial and commercial relations between persons in Luxembourg and the United Kingdom,

Have agreed as follows:—

PART I.—SCOPE AND OBJECT

Article 1

(a) In this Agreement—

- (i) the expression “Luxembourg persons” means individuals and corporations of any nationality whose money and property have been subject in the United Kingdom to the Trading with the enemy (Custodian) Order 1939, as amended (hereinafter called the “Custodian Order”), solely because they are and have been resident or carrying on business in Luxembourg;
- (ii) the expression “United Kingdom persons” means individuals and corporations of any nationality whose money or property have been subject to special measures in Luxembourg solely because they are and have been resident or carrying on business in the United Kingdom.

¹ Came into force on 11 December 1946, as from the date of signature in accordance with article 17.

(b) This Agreement applies—

- (i) (subject to (c) (i) below) to money and property in the United Kingdom of Luxembourg persons which have been dealt with under the Custodian Order;
- (ii) to money and property in Luxembourg of United Kingdom persons which have been the subject of special measures in Luxembourg since the 20th May, 1940.

(c) This Agreement does not apply—

- (i) to money and property in the United Kingdom of individuals of British nationality resident in Luxembourg;
- (ii) to money or property the release or return of which involves a settlement in which one or more Departments of the contracting Governments have an interest.

Article 2

This Agreement relates to the release of money or property from custodian or other special measures to which it has been subjected by reason of the enemy occupation of Luxembourg and consequently does not relate to measures applied to money or property under revenue or foreign exchange legislation.

PART II.—APPLICATION OF THE AGREEMENT TO VARIOUS CLASSES OF MONEY AND PROPERTY

Article 3

BANK BALANCES

Bank balances belonging to Luxembourg and United Kingdom persons shall be placed at the disposal of the original account holders. Moneys deposited with Building and Friendly Societies and organisations of a like nature shall, so far as possible, be similarly dealt with.

Article 4

COMMERCIAL DEBTS, INTEREST AND OTHER MONEYS OF A LIKE NATURE DUE UNDER CONTRACTS

(a) Sterling and other sums at present held in the United Kingdom by the Custodian of Enemy Property in respect of commercial debts, interest and other moneys of a like nature due to Luxembourg persons will be transferred to the

Grand Ducal Government of Luxembourg with a view to the satisfaction of the claims of the creditors, but the Government of the United Kingdom may, with the agreement of the Grand Ducal Government, repay moneys now held by the Custodian to the persons from whom the Custodian received such moneys in cases which are held to justify this action.

- (b) (i) The Grand Ducal Government of Luxembourg, recognising that persons in Luxembourg (whether Luxembourg persons as defined in this Agreement or not) owing to United Kingdom persons debts of the kind referred to in (a) of this Article remain liable to their creditors until the debts are fully discharged in accordance with the terms of the relevant contract or instrument, undertakes to assist the creditors to trace and identify the debtors and to facilitate the enforcement of the claims of the creditors against the original debtors, their heirs or successors.
- (ii) In so far as it may be necessary to avoid any exchange difficulties, which might otherwise impede the transfer to persons in the United Kingdom of moneys to which this paragraph relates, where payment has been made or shall hereafter be made or tendered by Luxembourg persons in currencies other than sterling, the Grand Ducal Government of Luxembourg undertake to retain in sterling an amount sufficient to allow of the transfer of such moneys due to United Kingdom persons to the extent of the payments so made or tendered in respect of debts payable on or before the 8th September, 1944. The amount of sterling to be so retained, and the period for which it shall be retained shall be fixed by agreement between the two Governments.

Article 5

OTHER MONEYS

The provisions of (a) of Article 4 also apply to sterling and other sums at present held in the United Kingdom by the Custodian in respect of moneys due to Luxembourg persons as the result of the sale of goods, legacies, or trusts or other causes.

The provisions of (b) of Article 4 also apply to moneys situate in Luxembourg due to the United Kingdom persons as the result of the sale of goods, legacies or trusts or other causes.

Article 6

SECURITIES

Securities belonging to Luxembourg and United Kingdom persons shall be placed at the disposal of the original holders. Nevertheless, securities held in one country for banks in the other country will only be released on proof that they are not beneficially owned by persons resident or carrying on business in a country with which the Government making the release was at war on the 8th May, 1945, or incorporated under the laws of such a country.

Article 7

IMMOVABLE PROPERTY

Immovable property belonging to Luxembourg persons at present held in the United Kingdom under Custodian control shall be released so that the owners shall be free to resume the ownership and management of their property. Immovable property belonging to United Kingdom persons which is at present subject to special measures in Luxembourg shall be released so that the owners shall be free to resume the ownership and management of their property.

Article 8

MOVABLE PROPERTY

The two contracting Governments will cause movable property belonging to Luxembourg (or United Kingdom) persons, as the case may be, to be released from Custodian control or from the special measures which have been applied and will in addition use their best endeavours to assist in tracing and returning such movable property to the owners.

Article 9

INDUSTRIAL, LITERARY AND ARTISTIC PROPERTY

This Agreement does not apply to rights in industrial, literary and artistic property.

Article 10

COMMERCIAL, FINANCIAL AND INDUSTRIAL UNDERTAKINGS

Any restrictions (other than those which are common to all persons resident in Luxembourg or the United Kingdom) which at present prevent Luxembourg

persons from resuming the management or direction of their undertakings in the United Kingdom, or United Kingdom persons from resuming the management or direction of their undertakings in Luxembourg, shall be removed.

Article 11

THE ESTATES OF DECEASED PERSONS

The Custodian in the United Kingdom is not obliged to pay or deliver money or property belonging to the estates of Luxembourg persons who have died since their money or property became subject to the Custodian Order until a legal personal representative of the deceased has been appointed in the United Kingdom.

PART III.—MISCELLANEOUS PROVISIONS

Article 12

ACTS OF DISPOSSESSION

The Grand Ducal Government of Luxembourg will grant to individuals resident in the United Kingdom, and to corporations controlled by individuals resident in the United Kingdom or by corporations which are themselves controlled by individuals in the United Kingdom, treatment no less favourable than they grant to individuals residents in Luxembourg or corporations controlled by such individuals in regard to property situated in Luxembourg which has been the subject of acts of dispossession (of the kinds covered by the Inter-Allied Declaration of the 5th January, 1943)¹ or of any discriminatory legislation, and they will take the action necessary to restore any rights or interests of individuals or corporations as above defined which have been prejudiced by any such acts of dispossession or discriminatory legislation.

Article 13

REMOVAL OF LEGAL OBSTACLES

The contracting Governments agree to consider action for the removal of legal obstacles (including periods of prescription, &c.) arising from the war which may prevent an equitable settlement of outstanding indebtedness.

¹ Great Britain, *Miscellaneous No. 1* (1943), Cmd. 6418.

Article 14

LIQUIDATIONS IN PROGRESS

The contracting Governments will consult together on outstanding questions arising from liquidations or similar proceedings undertaken under war-time conditions and affecting the property of individuals, or corporations controlled by individuals, resident in Luxembourg or the United Kingdom as the case may be, and in the meantime will not, except in agreement, take action to complete proceedings pending.

Article 15

FEES

No fees will be charged in the United Kingdom or in Luxembourg in respect of the release or restoration of property as provided in the present Agreement.

Article 16

CONSULTATION

The contracting Governments shall consult together in order to decide the details of the procedure for giving effect to this Agreement.

Article 17

ENTRY INTO FORCE AND DURATION

The present Agreement shall enter into force as from this day's date and shall remain in force until all moneys and properties have been released or restored according to its terms unless, before that date, either of the contracting Governments shall give notice to the other that they desire to terminate it. In the event of any such notice being given the Agreement shall cease to operate three months after the date of the notice.

IN WITNESS WHEREOF the undersigned duly authorised by their respective Governments have signed the present Agreement and have affixed thereto their seals.

DONE in London, in duplicate, this 11th day of December, 1946, in English and French, both texts being equally authentic.

[L.S.] O. G. SARGENT

[L.S.] A. J. CLASEN

EXCHANGE OF NOTES

No. 1

Mr. Attlee to M. André Clasen

FOREIGN OFFICE

11th December, 1946

Your Excellency,

By the Agreement which we have signed to-day, His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland and the Grand Ducal Government of Luxembourg have agreed upon certain arrangements designed to facilitate the return to their rightful owners of certain moneys and property, which have been subject to restrictions in the two countries. In the course of the discussions which have preceded the conclusion of the Agreement, understandings have been reached on some matters which it has been agreed should not be included in the Agreement itself, but should nevertheless be placed on record.

2. The intention of His Majesty's Government in the United Kingdom is to deal under the Agreement with assets which belonged to persons and concerns who, at the time of the occupation of Luxembourg, were genuine Luxembourg persons or concerns and were not subject to control, direct or indirect, by interests in any States with which His Majesty was at war on 8th May, 1945. In particular, in the case of securities held for Luxembourg banks, it may be necessary to defer the release from Custodian control until evidence of beneficial ownership is available.

3. It has been explained on behalf of His Majesty's Government in the United Kingdom that, in view of the effect of certain Custodian legislation in, for example, Canada, the Union of South Africa and the United States of America, a release effected in respect of the United Kingdom legislation will not always have the result that the owner can deal freely with his securities, if they were issued in a country which has special Custodian legislation relating to shares registered in that country.

4. His Majesty's Government in the United Kingdom understand that the Grand Ducal Government of Luxembourg possesses full information regarding the possible concealment of enemy interests by companies registered in Luxembourg and will disclose such relevant particulars in transmitting to His Majesty's Government applications for the release of the money and property of such companies.

5. It has been explained on behalf of His Majesty's Government in the United Kingdom that the procedure adopted by the Custodian of Enemy Property in Northern Ireland in charging fees has made impracticable the application of Article 15 to the moneys and property of Luxembourg persons in Northern Ireland and in the circumstances it has been agreed that the action he has taken shall be confirmed.

6. In regard to Article 9, which excludes rights in industrial, literary and artistic property from the scope of the Agreement, I understand that your Government agree that this question should be handled, if necessary, by a separate Agreement, which your Government's representatives will conclude with the responsible officers of His Majesty's Government.

7. His Majesty's Government in the United Kingdom will communicate to the Governments of British colonies and overseas territories, protectorates and mandated territories, copies of the present Agreement, and will request these Governments, if they see no objection, to make analogous arrangements with regard to the release of the property of Luxembourg persons. It will naturally be understood that, in so far as any of these Governments do so, the Luxembourg Government will give reciprocal treatment to persons whose money and property has been subject to special measures in Luxembourg solely because they are and have been resident or have been carrying on business in the territory in question.

8. I have the honour to suggest that your Excellency should inform me whether the intentions of the Grand Ducal Government of Luxembourg and their appreciation of the explanations which have been given in the course of the discussions are correctly represented in this letter.

I have, &c.

(Signed) C. R. ATTLEE

No. 2

M. André Clasen to Mr. Attlee

LÉGATION DU GRAND-DUCHÉ DE LUXEMBOURG

London, 11th December, 1946

Sir,

I have the honour to acknowledge with thanks receipt of your Excellency's note of to-day's date, the text of which is as follows:—

[See Note No. 1]

On the instructions of my Government I have the honour to confirm that the Grand Ducal Government of Luxembourg are in agreement with the terms of your Excellency's note, which will accordingly be regarded as placing on record the understanding between the two Governments in this matter.

I have, &c.

(Signed) A. J. CLASEN