

No. 330

**AUSTRALIA
and
DENMARK**

**Exchange of Notes regarding the release of Danish assets.
Canberra, 8 October 1948**

English official text communicated by the Minister in charge of the Australian Mission to the United Nations. The registration took place on 21 December 1948.

**AUSTRALIE
et
DANEMARK**

**Echange de notes relatif au déblocage des avoirs danois.
Canberra, 8 octobre 1948**

Texte officiel anglais communiqué par le Ministre, chef de la Mission australienne auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 21 décembre 1948.

No. 330. EXCHANGE OF NOTES¹ BETWEEN THE GOVERNMENTS OF AUSTRALIA AND OF DENMARK REGARDING THE RELEASE OF DANISH ASSETS. CANBERRA, 8 OCTOBER 1948

I

ACTING MINISTER FOR EXTERNAL AFFAIRS
CANBERRA, A.C.T.

8th October, 1948

Sir,

I have the honour to refer to earlier correspondence between representatives of the Danish and Australian Governments concerning the release of Danish assets held under control by the Controller of Enemy Property under the National Security (Enemy Property) Regulations and to record hereunder my Government's understanding of the Agreement reached between the two Governments in this matter:—

Article 1

a) In the case of money and property in Australia, this Agreement shall apply to money and property which have been dealt with under the National Security (Enemy Property) Regulations made under the National Security Act 1939-43 and under the Trading with the Enemy Act 1939-47 being Statutes of the Parliament of the Commonwealth of Australia (hereinafter called the Commonwealth Statutes). In the case of money and property in Denmark, it shall apply to money and property which have been subject to the Danish regulations of the 27th December, 1940.

b) For the purpose of this Agreement the phrase "Danish persons" is defined as meaning persons or bodies of persons whose money and property have been subject to the Commonwealth Statutes solely because they are or have been resident or carrying on business in Denmark. The phrase "Australian persons" is defined as meaning persons and bodies of persons whose money and property have been subject to the Danish Regulations of the 27th December,

¹ Came into force on 8 October 1948, by the exchange of the said notes.

1940, and who are or have been resident or carrying on business in Australia, not being German or Japanese nationals.

c) It is expressly understood that this Agreement does not apply to any settlements to be effected between the contracting Governments or in which one or more Government Departments are concerned except by mutual agreement.

Article 2

This Agreement does not purport to deal with the position of the money and property of Danish and Australian persons under Taxation and Foreign Exchange Control legislation in force in Australia and Denmark.

Article 3

The money and property in Australia of British subjects resident in Denmark which have been subject to the Commonwealth Statutes shall be dealt with outside the scope of this Agreement.

Article 4

BANK BALANCES

Bank balances and deposits other than those dealt with in Article 5 belonging to Danish or Australian persons shall be placed at the disposal of the original account holders.

Article 5

OTHER MONEYS

a) Moneys at present held by the Controller of Enemy Property and the Treasurer of the Commonwealth in the terms of the Commonwealth Statutes as due to Danish persons on account of commercial debts, bank balances and deposits, interests, dividends and moneys of a like nature arising from the sale of goods or by way of legacies or under trusts or settlements or from other causes will be transferred in Australian currency to the Danish Government or to such Bank as may be nominated by the Danish Government with a view to the satisfaction of the claims of Danish persons.

b) Moneys of the categories referred to in paragraph (a) of this article due from Danish persons to Australian persons and actually paid to Denmark's Nationalbank shall be paid by that Bank to the Australian persons entitled thereto.

c) All other moneys due to Australian or Danish persons shall be released for settlement as between debtor and creditor. The Danish Government undertakes to assist Australians who own property in Denmark, and confirms that, according to Danish law, Australian creditors may apply to the Danish courts in order to enforce payment of their claims, if the Danish debtors do not voluntarily pay at once.

Article 6

MOVEABLE AND IMMOVEABLE PROPERTY, INCLUDING SECURITIES

Danish and Australian persons shall be free to resume ownership and management of their property in Australia and Denmark respectively.

Article 7

INDUSTRIAL, LITERARY AND ARTISTIC PROPERTY

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

Article 8

COMMERCIAL, FINANCIAL AND INDUSTRIAL UNDERTAKINGS

Any restrictions (other than those which are common to all persons resident in Denmark or Australia) which at present prevent persons in Denmark from resuming the management or direction of their undertakings in Australia, or persons in Australia from resuming the management or direction of their undertakings in Denmark shall be removed.

Article 9

REMOVAL OF LEGAL OBSTACLES

The contracting Governments agree to consider action for the removal of legal obstacles arising from the war which may prevent an equitable settlement of outstanding indebtedness.

Article 10

LIQUIDATIONS IN PROGRESS

The contracting Governments will consult together on outstanding questions arising from liquidations or similar proceedings undertaken under wartime conditions and in the meantime will not, except in agreement, take action to complete proceedings pending.

Article 11

ESTATES OF DECEASED PERSONS

Moneys which have been or which may be received under the Commonwealth Statutes on account of Danish persons who have since died shall not be paid over to the Danish Government in terms of this agreement until a legal personal representative has been appointed.

Article 12

FEES

Fees will not be taken in respect of money and property passing under this agreement.

Article 13

LIENS, ENCUMBRANCES, ETC.

Payment of any moneys and transfer of any securities, real property or other property as aforesaid shall be subject to rights which the holders of liens, pledges, mortgages and other encumbrances could have exercised in respect thereof against the original owner.

Article 14

The Danish Government hereby agrees to indemnify and keep indemnified the Government of Australia and the Controller of Enemy Property and the Treasurer of the Commonwealth from all actions, suits, proceedings, claims or demands which may arise from the payment or transfer of the moneys or property as aforesaid to the Danish Government or to such Bank as may be nominated by the Danish Government in accordance with this agreement.

If the foregoing provisions are acceptable to your Government I have the honour to propose that this Note and your confirmatory reply thereto be deemed to constitute and evidence the Agreement between our two Governments in the matter.

I have the honour to be, with the highest consideration, Sir, your most obedient servant.

J. B. CHIFLEY
Acting Minister for External Affairs of Australia

His Excellency Mr. C. M. Rottböll
Envoy Extraordinary and Minister
Plenipotentiary of Denmark
Royal Danish Legation
Canberra, A.C.T.

II

ROYAL DANISH LEGATION

Ref. No. 73.Y.1.

Canberra, 8th October, 1948

Sir,

I have the honour to refer to earlier correspondence between representatives of the Danish and Australian Governments concerning the release of Danish assets held under control by the Controller of Enemy Property under the National Security (Enemy Property) Regulations and to record hereunder my Government's understanding of the Agreement reached between the two Governments in this matter:

[See note I]

The foregoing provisions having been accepted by my Government, I have the honour to agree that your note of the 8th inst. and this note be deemed to constitute and evidence the Agreement between our two Governments in the matter.

I have the honour to be, with the highest consideration, Sir, your most obedient servant.

C. M. ROTTBÖLL
Royal Danish Minister

The Right Honorable J. B. Chifley, M.P.
Prime Minister and
Acting Minister for External Affairs
Canberra, A.C.T.