

No. 361

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**AUSTRALIA**  
and  
**BELGIUM**

**Exchange of Notes constituting an agreement relating to the  
release of Belgian assets held under control in Australia.  
Canberra, 9 December 1948**

*English official text communicated by the Minister in charge of the Australian  
Mission to the United Nations. The registration took place on 25 January  
1949.*

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**AUSTRALIE**  
et  
**BELGIQUE**

**Echange de notes constituant un accord concernant le déblocage  
d'avoirs belges détenus sous séquestre en Australie.  
Canberra, 9 décembre 1948**

*Texte officiel anglais communiqué par le Ministre chargé de la Mission australienne  
auprès de l'Organisation des Nations Unies. L'enregistrement a eu  
lieu le 25 janvier 1949.*

No. 361. EXCHANGE OF NOTES<sup>1</sup> CONSTITUTING AN AGREEMENT BETWEEN THE GOVERNMENTS OF AUSTRALIA AND OF BELGIUM RELATING TO THE RELEASE OF BELGIAN ASSETS HELD UNDER CONTROL IN AUSTRALIA. CANBERRA, 9 DECEMBER 1948

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DEPARTMENT OF EXTERNAL AFFAIRS  
CANBERRA. A.C.T.

9th December, 1948

Sir,

I have the honour to refer to earlier correspondence between representatives of the Belgian and Australian Governments concerning the release of property in Australia belonging to persons resident in Belgium and held under control by the Controller of Enemy Property, and to record hereunder my Government's understanding of the agreement reached between our two governments in this matter.

*Article 1*

The property referred to in this agreement (hereinafter referred to as "Belgian property") is that property which is situated in Australia and which (subject to the provisions of any Belgian legislation) is subject to the provisions of the National Security (Enemy Property) Regulations made under the National Security Act 1939-43 or to the provisions of the Trading with the Enemy Act of 1939-47 (being statutes of the Parliament of the Commonwealth of Australia) and belonging to persons or bodies of persons who are or have been "enemy subjects" solely because they are or have been resident or carrying on business in Belgium on and since 15th May, 1940.

*Article 2*

1. The Government of Australia agrees to direct the Controller of Enemy Property to supply to the Belgian Government or their duly authorised officer such information as is or may come within his knowledge regarding Belgian property.

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<sup>1</sup> Came into force on 9 December 1948, by the exchange of the said notes.

2. The Belgian Government agrees to supply the Controller of Enemy Property with such additional information regarding Belgian property as is or may come within their knowledge.

3. The Belgian Government or their duly authorised officer shall be entitled to make enquiries regarding Belgian property through the Controller of Enemy Property whenever they deem it advisable to do so and the Controller of Enemy Property shall supply to the Belgian Government or their duly authorised officer the information which they may require and the Controller is entitled to obtain.

#### *Article 3*

The Controller of Enemy Property shall pay the amounts of money which have been or may be received by him, and which would, but for the operation of the National Security (Enemy Property) Regulations, be payable to Belgian persons, to the Belgian Government or their duly authorised officer or to such person or persons as the Belgian Government or their duly authorised officer may direct.

#### *Article 4*

The Controller of Enemy Property shall, if so required by the Belgian Government, furnish directions for the payment to the Belgian Government or their duly authorised officer or to such person or persons as the Belgian Government or their duly authorised officer may direct of any amounts of money held by banks, financial institutions, trustees or debtors which, but for the operation of the National Security (Enemy Property) Regulations, would be payable to Belgian persons.

#### *Article 5*

Securities, real property and other property (other than money subject to the provisions of articles 3 and 4) owned, subject as aforesaid, by Belgian persons shall remain in the names of the present holders unless the Belgian Government or their duly authorised officer shall direct transfer to the Belgian Government or their duly authorised officer or to other person or persons. In either case the Controller of Enemy Property shall furnish all directions necessary to effectuate the enjoyment of such property by the owner or owners thereof or otherwise to transfer such property as may be directed by the Belgian Government or their duly authorised officer.

*Article 6*

The Treasurer of the Commonwealth of Australia shall pay to the Belgian Government or their duly authorised officer or to such person or persons as the Belgian Government or their duly authorised officer may direct, all moneys received by the Comptroller-General of Customs under the provisions of Section 14 of the Trading with the Enemy Act 1939-47 which may, at the time of this agreement, remain in the Trust Account mentioned in Sub-Section (4) of that Section and which would, but for the operation of the said Act or any other law of the Commonwealth of Australia, be payable to Belgian persons.

*Article 7*

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 encumbrances could have exercised in respect thereof against the original owner.

*Article 8*

The Belgian Government hereby agrees to indemnify and keep indemnified the Government of Australia, the Controller of Enemy Property and the Treasurer of the Commonwealth of Australia from all actions, suits, proceedings, claims or demands which may arise from the payment or transfer of the moneys or property as aforesaid in the Belgian Government or their duly authorised officer or other person or persons in accordance with this Agreement.

*Article 9*

The Controller of Enemy Property may deduct from any amount to be paid under and by virtue of this agreement any expenses which have necessarily been incurred or may be incurred by him in the administration of Belgian property.

*Article 10*

The Governments of Australia and of Belgium may subsequently agree that certain property shall be excluded from the provisions of this agreement.

*Article 11*

The rate of exchange at which funds held or directed to be transferred in pursuance of this Agreement shall be as follows:—

- (i) the rate of exchange fixed in any contract in pursuance of which moneys would be, but for the operation of the provisions of the National Security (Enemy Property) Regulations paid to Belgian persons;
- (ii) if no such rate is fixed then at the ruling rate as determined by the Commonwealth Bank of Australia at the date at which the moneys become due and payable;
- (iii) if no rate is fixed by contract as referred to in paragraph (i) above, or if no rate is ascertainable as referred to in paragraph (ii) above then at the rate of 19.083 belgas to £1 Australian.

*Article 12*

- (i) Australian persons shall be free to resume ownership and management of their property in Belgium and such property shall be placed at the free disposal of the owner upon application transmitted by him to the Belgian person in possession thereof.
- (ii) The Belgian Government undertakes to assist Australian persons who own property in Belgium or to whom debts are due from Belgian persons to trace and identify their property and will place the Belgian courts at the disposal of Australian creditors, if required, to enable them to establish and obtain satisfaction of their claims.

*Article 13*

This Agreement does not purport to exempt the moneys and assets of Belgian and Australian persons from the application of laws covering taxation, monetary “freezing” and foreign exchange control in force in Australia and in Belgium.

*Article 14*

In this agreement the term "Belgian persons" shall mean persons, firms or corporations who or which have been or are now resident or carrying on business in Belgium being a country formerly in the occupation of a Power with which the Government of Australia was at war.

In this agreement the term "Australian persons" shall mean persons, firms or corporations whose money and property in Belgium have been subject to special regimes solely because they are or have been residents or carrying on business in Australia and in Australian territories including mandated and trust territories, not being German or Japanese nationals.

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In accepting Article 13, the Australian Government reserves, however, the right to make representations on behalf of any Australian person who is unable to obtain possession of his money in Belgium owing to its being frozen under special measures in force in that country other than normal foreign exchange control.

Finally, I have the honour to record hereunder my Government's understanding of certain points of procedure on which agreement was reached during the negotiations between our two Governments.

- (1) In connection with Article 3 and 6 of the agreement, the Controller of Enemy property will transfer moneys held by him to the Office Belge de Gestion et de Liquidation.
- (2) In connection with Article 4 and 5 of the agreement, moneys and securities deposited in Australian Banks and subject to the direction of the Controller of Enemy Property will be released only upon presentation of a permit issued by the Institut Belgo-Luxembourgeois du Change. Requests for the release of such assets will be presented to the Institut through a recognized Belgian Bank and conveyed to the Controller of Enemy Property, C/—Department of the Treasury, Canberra, who will advise the Australian Bank holding the assets.
- (3) In connection with Article 8 of the agreement, the Controller of Enemy Property, will at the request of the Belgian Government, provide an itemised statement of moneys held by him to the Office Belge de Gestion et de Liquidation.

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 of State for External Affairs

His Excellency M. Paul B. Verstraeten  
Envoy Extraordinary and Minister Plenipotentiary of Belgium

Sydney

LÉGATION DE BELGIQUE

Canberra, 9th December, 1948

Sir,

I have the honour to acknowledge receipt of your Note of the 9th. December 1948, concerning the release of Belgian assets in Australia and to record hereunder my Government's understanding of the agreement reached between the Belgian and Australian Governments in this matter:—

[See note I]

The foregoing provisions having been accepted by my Government, I have the honour to propose that your Note referred to above and this Note be deemed to constitute and evidence the agreement between our two Governments in the matter.

I have the honour to be, Sir, your obedient servant,

Paul B. VERSTRAETEN  
Minister of Belgium

The Rt. Hon. J. B. Chifley  
Acting Minister for External Affairs of Australia  
Canberra, A.C.T.