

No. 1794

**NETHERLANDS
and
FEDERAL REPUBLIC OF GERMANY**

**Exchange of notes constituting an agreement concerning
the restitution of German securities expressed in
Reichsmarks. The Hague, 19 May 1952**

Official texts: Dutch and German.

Registered by the Netherlands on 7 July 1952.

**PAYS-BAS
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Échange de notes constituant un accord concernant la
restitution de certaines valeurs mobilières libellées en
Reichsmarks. La Haye, 19 mai 1952**

Textes officiels néerlandais et allemand.

Enregistré par les Pays-Bas le 7 juillet 1952.

[TRANSLATION — TRADUCTION]

No. 1794. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE RESTITUTION OF GERMAN SECURITIES EXPRESSED IN REICHSMARKS. THE HAGUE, 19 MAY 1952

I

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY
THE HAGUE

The Hague, 19 May 1952
Nieuwe Parklaan 77

Your Excellency,

On behalf of the Federal Republic of Germany I have the honour to inform you of the following :

The Government of the Kingdom of the Netherlands has lodged a claim for the restitution of German securities expressed in Reichsmarks on the grounds that these securities disappeared during the German occupation of the Netherlands and were removed to Germany.

Negotiations concerning this claim were conducted by a German and a Netherlands delegation at The Hague early in October 1951, at Unkel-am-Rhein in late November 1951 and again at the Hague on and after 16 January 1952. These negotiations having to-day culminated in a settlement, I have the honour to confirm the results to you in the following terms :

1. The Federal Government will pay the Netherlands Government, in satisfaction of the claim for the restitution of the Reichsmark securities which disappeared during the German occupation of the Netherlands and were removed to Germany, the sum of 45 million DM as the counterpart value of the Reichsmark shares; in addition, the Federal Government acknowledges that it owes the Netherlands Government a sum not yet determined as the counterpart value of bonds expressed in Reichsmarks to an amount of 70 million Reichsmarks.

2. The sum of 45 million DM will be paid in four instalments, the first instalment of 10 million DM on 1 July 1952, a second instalment of 15 million

¹ Came into force on 19 May 1952, by the exchange of the said notes.

DM on 1 July 1953 and the remaining instalments of 10 million DM each on 1 July of the succeeding years.

3. After 1 July 1953 the Federal Government will pay interest on the instalments still outstanding at the rate of 3 per cent per annum. The interest is to be paid together with the instalment due, the first payment of interest to be made on 1 July 1953.

4. It was agreed that the payment of the counterpart value of the 70 million Reichsmark bonds, in particular the conversion into D-marks, payment of interest redemption and transfer, would be effected in the manner to be laid down in the future debt settlement for bonds issued in German currency before 1 September 1939.

5. Instalments and interest referred to in paragraphs 2 and 3 will be deposited in an account to be opened in favour of the Netherlands Government in a German *Landeszentralbank* (central *Land* bank) or *Aussenhandelsbank* (foreign trade bank). This account will be known as the *Aktien-Altbesitz-Sonderkonto* (special account for established share-holdings).

6. The sums in DM credited to this account may be used by the Netherlands Government as follows :

(a) The account may be drawn on for the purpose of investments of capital in the Federal Republic of Germany and in the Western Sectors of Berlin, on the same conditions as those applying to original blocked accounts which came into being as a consequence of the disposal of securities held by the owner of the account before 1 September 1939.

(b) In addition, the account may be drawn on for the purpose of transfers of sums in DM to a legal person under German law, designated by the Netherlands Government in consultation with the Federal Government, with a view to the subsequent use of these funds for the financing of transactions in goods and services and for medium and long-term investments, especially investments calculated to promote commercial relations between Germany and the Netherlands.

7. The sums in DM credited to the account may be assigned by the Netherlands Government as follows :

(a) to any persons, with the effect that the assignees will have the same legal status as that prescribed by the German general foreign exchange regulations for persons acquiring foreign credit balances;

(b) to natural and legal persons having their usual residence, principal establishment or seat in the Netherlands, with the effect that any transfer rights — see paragraph 8 — are retained by the first assignee.

It is understood that, at the request of either Party, the Parties will consult together to determine whether and how, in the case of an assignment of assets under sub-paragraph (a), permission to transfer may be obtained for the Netherlands Government and whether and how any further facilities for such assignment may be secured.

8. The sums in DM deposited in the account, the outstanding instalments and the investments under paragraph 6, as well as interest on DM credit balances and on DM claims and income from the aforesaid investments will be dealt with, for the purposes of transfer rights, as if they were shares, or represented income from shares, owned by the present holder before 1 September 1939. The same rule also applies to persons with transfer rights under paragraph 7 (b). Any more favourable facilities for effecting transfers under other regulations will not be prejudiced by this provision.

9. If there should be any alteration in the rate of exchange between the German mark and the guilder, the provisions of article VIII of the German-Netherlands Payments Agreement of 7 September 1949 which apply to the aggregate balance of the German-Netherlands currency accounts will apply to the outstanding instalments.

10. With regard to the Netherlands Government's request that transactions and investments financed by means of the *Aktien-Altbesitz-Sonderkonto* should be exempt from the German tax on income from capital, it is agreed that this matter is to be held over for settlement through later negotiations for the conclusion of a German-Netherlands agreement on the avoidance of double taxation. In the course of these negotiations, the question of reimbursing to the Netherlands Government any sums which may in the meanwhile have been paid in respect of tax on income from capital is to be taken into consideration.

11. The Federal Government is proceeding on the assumption that the Netherlands Government will not lodge any further claim for the restitution of German Reichsmark securities.

I should point out that the foregoing settlement has received the approval of the Allied High Commission for Germany.

I have the honour to be, etc.

(Signed) DU MONT

His Excellency Dr. W. Drees
Acting Minister of Foreign Affairs
of the Kingdom of the Netherlands
The Hague

II

MINISTRY OF FOREIGN AFFAIRS

The Hague, 19 May 1952

No. 50226

Your Excellency,

I have the honour to acknowledge receipt of your note of today's date (reference number : *none*) in which you inform me that the Federal Government of Germany is in a position to agree to the results of the negotiations which were conducted at The Hague early in October 1951, at Unkel-am-Rhein in late November 1951 and again at The Hague on and after 16 January 1952, concerning the claim lodged by the Government of the Kingdom of the Netherlands for the restitution of German securities expressed in Reichsmarks which disappeared during the German occupation of the Netherlands and were removed to Germany. These results are described in the following terms :

[See note I]

I have noted that the foregoing settlement has received the approval of the Allied High Commission for Germany.

I have the honour to inform you that the Government of the Kingdom of the Netherlands is prepared to accept the above provisions and that your note and the present reply will be regarded as constituting an agreement between the Kingdom of the Netherlands and the Federal Republic of Germany, which agreement becomes operative this day.

I have the honour to be, etc.

(Signed) W. DREES
Acting Minister of Foreign Affairs

His Excellency Dr. K. Du Mont
Ambassador of the Federal Republic of Germany
The Hague
