

No. 2123

AUSTRALIA
and
ITALY

Exchange of notes constituting an agreement on the release of Italian property situated in Australia which is subject to the provisions of the National Security (Enemy Property) Regulations and the Trading with the Enemy Act 1939-1947, and the settlement of Australian claims against Italy. Rome, 24 May 1952

Official texts: English and Italian.

Registered by Australia on 2 March 1953.

AUSTRALIE
et
ITALIE

Échange de notes constituant un accord relatif au déblocage des biens italiens situés en Australie qui sont soumis aux dispositions du règlement de sécurité nationale (propriété ennemie) et de la loi de 1939-1947 relative au commerce avec l'ennemi, ainsi qu'au règlement des créances australiennes sur l'Italie. Rome, 24 mai 1952

Textes officiels anglais et italien.

Enregistré par l'Australie le 2 mars 1953.

No. 2123. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN AUSTRALIA AND ITALY ON THE RELEASE OF ITALIAN PROPERTY SITUATED IN AUSTRALIA WHICH IS SUBJECT TO THE PROVISIONS OF THE NATIONAL SECURITY (ENEMY PROPERTY) REGULATIONS AND THE TRADING WITH THE ENEMY ACT 1939-1947, AND THE SETTLEMENT OF AUSTRALIAN CLAIMS AGAINST ITALY. ROME, 24 MAY 1952

I

The Australian Minister at Rome to the Minister of Foreign Affairs of Italy

Rome, 24th May, 1952

Your Excellency,

I have the honour to refer to earlier discussions regarding the release of Italian property situated in Australia which is subject to the provisions of the National Security (Enemy Property) Regulations and the Trading with the Enemy Act 1939-1947 (hereinafter referred to as "the Commonwealth Statutes") and the settlement of Australian claims against Italy.

The understanding of the Australian Government of the Agreement reached between our two Governments in this matter is as follows :

1. In this agreement, unless the contrary intention appears :

(a) the word "institutions" shall be interpreted as including any firm, authority, Government department, partnership or company, whether incorporated or unincorporated;

(b) the phrase "Italian persons" shall be interpreted as meaning Italian nationals and Italian institutions whose property became subject to the Commonwealth Statutes because they are or were resident or carrying on business in Italy;

(c) the phrase "Peace Treaty" shall be interpreted as meaning the Treaty of Peace² with Italy which was signed in Paris on the 10th February, 1947, and which came into force as regards Australia on the 9th July, 1948.

¹ Came into force on 24 May 1952, by the exchange of the said notes.

² United Nations, *Treaty Series*, Vols. 49 and 50.

2. Moneys at present held by the Australian Government pursuant to the provisions of the aforementioned Commonwealth Statutes, on behalf of Italian persons shall, subject to the provisions of this agreement, be paid to the Italian Government or to such bank as may be nominated by the Italian Government, with a view to satisfaction of the claims of the Italian persons or institutions to whom such moneys are due.

3. The Italian Government shall return to the Australian Government any moneys which are found not to be due to or owned by Italian persons and which have been paid to the Italian Government in pursuance of the provisions of the immediately preceding paragraph.

4. The Italian Government shall indemnify and keep indemnified the Australian Government, the Australian Treasurer and the Australian Controller of Enemy Property from all actions, suits, proceedings, claims or demands which may arise from the payment of moneys as aforesaid to the Italian Government or to such bank as may be nominated by the Italian Government.

5. The Australian Government shall forthwith release all other Italian property in Australia which has been subject to the provisions of the aforementioned Commonwealth Statutes.

6. As soon as possible the Australian Government shall furnish the Italian Government with a complete list of all Italian immovable and movable assets, at present held by the Australian Government under the provisions of the Commonwealth Statutes.

7. The Italian Government undertakes to settle within twelve months from the date hereof all outstanding Australian claims for which the Italian Government is liable under the Peace Treaty, provided that :

(a) if the Australian Government is satisfied in connection with any claim that the Italian Government may reasonably require further particulars from the claimant to enable the claim to be investigated, then and in such case the Italian Government undertakes, if settlement cannot be effected within twelve months from the date hereof, to settle such claim within six months of the date of the receipt of the particulars required;

(b) in the event of any dispute arising in connection with any Australian claim which cannot be settled through normal diplomatic channels, such dispute shall be submitted to a neutral arbitrator jointly appointed by the two Governments and, failing agreement, by the Secretary-General of the United Nations, and the decision of such arbitrator shall be accepted by both Governments as final and binding. The cost of arbitration shall be borne in equal shares by the two Governments.

8. The Australian Government shall charge, in respect of the moneys to be transferred in pursuance of paragraph 2 hereof and the property to be released in pursuance of paragraph 5 hereof, an administrative charge of 2 %.

9. This Agreement does not purport to exempt any money or property from taxation or monetary control legislation in force in Australia.

10. The Governments of Italy and Australia may subsequently agree that certain property shall be excluded from the provisions of this Agreement.

11. Moneys which have been or may be received under the aforementioned Commonwealth Statutes on account of Italian persons who have since died, shall be dealt with in the same manner as property referred to in paragraph 5 hereof.

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 reached between our two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) KELLWAY

His Excellency the Hon. Alcide De Gasperi
President of the Council of Ministers
and Minister of Foreign Affairs
Rome

II

The Minister of Foreign Affairs of Italy to the Australian Minister at Rome

[ITALIAN TEXT — TEXTE ITALIEN]

Roma, 24 mag. 1952

Signor Ministro,

ho l'onore di accusare ricevuta della nota in data odierna, con la quale Vostra Eccellenza mi ha comunicato quanto segue :

[See note I]

Ho l'onore di informare Vostra Eccellenza che il Governo italiano è d'accordo su quanto precede e che pertanto la Sua Nota e la presente risposta vanno considerate come costituenti un accordo tra i due Governi.

(Firmato) DE GASPERI

Sua Eccellenza
Cedric Vernon Kellway
Ministro d'Australia
Roma

[TRANSLATION — TRADUCTION]

Rome, 24 May 1952

Your Excellency,

I have the honour to acknowledge receipt of your note of today's date, in which you communicate to me the following :

[See note I]

I have the honour to inform you that the Italian Government agrees to the foregoing and that accordingly your note and the present reply will be regarded as constituting an agreement between the two Governments.

(Signed) DE GASPERI

His Excellency
Mr. Cedric Vernon Kellway
Australian Minister
Rome